

## **Briefing Memo**

### **Post-Conflict Reconstruction and the Private Security Company (PSC)**

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In recent years, the privatization of military services (the contracting of services to private security companies, hereafter called “PSCs”) has been advancing, mainly in Europe and North America. The sudden rise to prominence of PSCs began after the end of the Cold War. As civil wars and regional conflicts frequently flared up, many PSCs consisting mainly of retired military personnel were set up. This trend picked up more steam after the start of the Iraq War in 2003. Services provided by PSCs have expanded from direct participation in fighting to security and escort, military supply and replenishment assistance, education and training, information gathering and analysis, and consulting. In addition, as post-conflict reconstruction assistance becomes the primary mission of various national militaries, the proportion of post-conflict reconstruction as an area of operations has also started to increase for PSCs. Sometimes PSCs actually use their expertise to become more involved in post-conflict reconstruction than the militaries of the assistance-providing countries. This memo considers the now indispensable involvement of PSCs in post-conflict reconstruction.

#### **Main Functions of Modern Private Security Contractors**

##### **(1) Demand and Supply**

The post-Cold War military reductions exerted a great influence on both supply and demand for PSCs. Retired military personnel (especially those with special forces experience) have been known to set up PSCs and acquiring military contracts in the US, the UK, Russia and many other countries. However, the increased PSC supply due to military cuts is in a sense two sides of the same coin of a supply and demand increase. For example, on one hand, the militaries of developed countries have been scaled down, while on the other hand the frequency of military dispatch by developed countries, including peacekeeping operations, has risen unexpectedly. The scale of the US Army Material Command has shrunk 40%, and at this size has recently become unable to assist the US military in military intervention, and been forced to outsource to PSCs for military supplies. Mobilizing reserves can relieve the lack of active-duty soldiers, but it can be difficult to get a consensus of public opinion for a mobilization that would not be

for the purpose of defending the nation but instead for action in a foreign country (including post-conflict stabilization operations). In such cases, it is easier to compensate for the lack of active-duty soldiers with PSCs.

Furthermore, the developed countries' military cuts not only increase their own dependence on PSCs, but also end up increasing the dependence of developing countries on PSCs. A great factor behind this is the decreased amount of military aid flowing from developed countries to developing countries. As military aid from developed countries dwindled after the end of the Cold War, developing country militaries have become unable to maintain sufficient operational capability. At the same time, civil wars and regional conflicts in developing countries have tended to intensify after the Cold War. As a result, developing countries have become reliant on PSCs in order to shore up their national militaries, which have weakened due to the decrease in military aid.

One more factor behind the expanded demand for PSCs is the dysfunction of the United Nations, which became especially marked in the mid-1990s. Although the Cold War ended, expectations of the UN regarding international peacekeeping rose significantly, and the failures of the UN peacekeeping operations (PKO) in Somalia, (1992-93, 1993-95), Rwanda (1993-94, 1993-96), and Bosnia (1995-2002) served to inhibit UN activities. (Circumstances subsequently have taken a turn for the better.) In 1995, when facing a civil war with a rebel army backed by assistance from Liberia, the government of Sierra Leone requested assistance from the PSC Executive Outcomes in the form of a 22-month, \$35 million contract. The contract was for the provision of combat services, and resulted in successful suppression of the rebels and the signing of a peace agreement. Subsequently, Executive Outcomes was replaced, as the Economic Community of West African States Monitoring Group (ECOMOG) was introduced as a UN monitoring force. However, this UN monitoring force failed to sustain peaceful conditions, even though it spent \$4.7 million over the eight months it was stationed, and civil war broke out again. Another problem faced by the UN is the fact that the UN Security Council is comprised mainly of larger western countries that show strong interest when something happens near western Europe (e.g., Bosnia), but not necessarily when there is a problem in another part of the world.

## (2) Types of PSCs

Peter W. Singer of the Brookings Institution classifies PSCs into three types. They are

Military Provider Firms, Military Consultant Firms, and Military Support Firms. Of course, there are also individual PSCs that combine these types. Military Provider Firms provide services that utilize military force, and include provision of offensive and defensive services. Among the former, in response to client request, they may take on services including carrying out military attacks, a role close to that of mercenaries. At times, PSCs contracted for offensive services have determined the outcomes of conflicts, or have rescued governments put into fateful crises by attacking the opposition forces. However, public opinion has also been critical, and there are virtually no PSCs today that take on offensive contracts. Therefore, today's Military Provider Firms deal mainly in personnel and security for facilities and goods.

Military Consultant Firms provide education, training and advice to their client's military. In addition, Military Consultant Firms also perform tactical, operational and organizational structure analysis. From the beginning, PSCs of this nature have not participated in direct combat. Instead they pursue long-term profit-earning opportunities, and in some cases, after a certain amount of consulting services has been completed, carry out provision of combat services for the same client.

Lastly, contracting for assistance services of a Military Support Firm makes it possible for a client's military to concentrate its resources on pure military duties. Moreover, the following two points have been raised as reasons why logistical support and military supply services are suited to privatization and private contracting. First, the number of cases where militaries are asked to operate in places where infrastructure is undeveloped is increasing. This is one factor behind the increase in both quality and quantity of military involvement in post-conflict peacekeeping operations and peace building operations in developing countries. Second is the downsizing of militaries. When downsizing a military in terms of functions and job descriptions, the object of reductions is more often logistics rather than combat capacities.

### **Private Security Contractors in Post-Conflict Reconstruction**

These kinds of PSC attributes can also be used and are actually being used in the post-conflict reconstruction phase. They are compiled in the following table.

Table: Examples of Private Security Contractor Involvement in Post-conflict Reconstruction

PSC Type	Services Contracted	Relation to reconstruction assistance programs
S	Transport, supply assistance	Direct involvement
C	Military consulting, training assistance	
S	Demining, bomb disposal	
C	Information gathering, crisis management assistance	Indirect involvement (Environment improvement)
P	Security, escort	

P: Military Provider Firms  
 C: Military Consultant Firms  
 S: Military Support Firms

When a PSC becomes involved in post-conflict reconstruction, its relationship to reconstruction assistance programs can be roughly divided into two types: direct involvement and indirect involvement. PSCs are directly involved in transport of aid materials and assistance in replenishment of supplies to aid organizations. When development assistance agencies, including non-governmental organizations (NGOs), carry out aid activities in conflict regions and other areas where security is deteriorating, the aid materials and supplies that are transported to their bases of activity become targets for robbery. Private companies take on this kind of transport service from aid agencies, but they have to perform transport while they themselves eliminate the danger of coming under attack. In this way, PSCs utilize their military expertise in their involvement in reconstruction assistance projects.

Next are military consulting and training assistance. These are closely related to the security sector reform (SSR) part of post-conflict reconstruction. In almost all cases, after a conflict, the administrative organs of a country are not functioning, and the security sector, including the military, police and judiciary-related departments, are no exception. Moreover, immediately after the end of the conflict, the remnants of each of the factions who were carrying out the armed conflict still retain the capacity to operate. The restoration of security is an urgent need in order to eliminate obstructions to reconstruction projects by these factions, and to make democratic politics and free economic activity take root. To this end, Japan is also carrying out assistance for SSR in Afghanistan, Iraq and East Timor. Objects of SSR include the state military (including coast guard, border security apparatus, and other paramilitary) and police, as well as independent armed organizations (armed factions, insurgent groups and criminal organizations), judiciary and prison administration, and the supervision system for security organizations (the legislature and ombudsman system). However, the PSC's

military consulting and training assistance services are mainly involved in reform of military and police organizations (the country providing assistance contracts with the PSC for implementation).

The disposal of mines and unexploded bombs is an important pillar of post-conflict reconstruction, and these services are also being increasingly contracted to PSCs. If an assistance-providing country was to perform demining and disposal of unexploded bombs itself, it would have to mobilize its own relevant military and police units. However, the military and police of an assistance-providing country carries personnel who perform demining and disposal of unexploded bombs with the purpose of sustaining the home country's defense and security. For the military and police of an assistance-providing country to perform post-conflict demining and unexploded bomb disposal in a foreign country, it would have to do it using its own country's surplus defense and security-sustaining capacity. However, the fact is that there is so much post-conflict mine and unexploded bomb disposal work that assistance-providing countries do not have the surplus capacity to handle it. Thus, contracting this work to PSCs, which have competence in this area, is increasing rapidly. Military consulting and training assistance (SSR), and demining and unexploded bomb disposal are themselves reconstruction assistance projects. In the sense of developing an environment for other reconstruction assistance activities, there are also services that have indirect relationships to reconstruction assistance projects (See table).

Information gathering and crisis management assistance include providing information on the security situation to aid organizations, and at times implementing response training for aid organization staff for times of dangerous occurrences. Like security and escort services, these services protect aid workers from danger in poor security environments. Moreover, forces opposed to the post-conflict political framework use terror attacks on aid workers, who are "soft targets" that are relatively easy to attack, and try to unsettle the new government. For this reason, in addition to government agencies of assistance-providing countries and international organizations, NGOs and private companies engaged in reconstruction projects are also requesting security and escort services from PSCs when conducting aid operations in dangerous regions. World Vision, which is operating in Sierra Leone, and the Office of the United Nations High Commissioner for Refugees (UNHCR), which is working in the border regions of Afghanistan, are contracting PSCs for security and advice on securing safety, while the International Red Cross is also contracting PSCs in order to protect its employees and

assets.

One unusual example is the World Wildlife Fund's (WWF) contracting a PSC to protect the white rhinoceros from poaching in a white rhinoceros sanctuary in the Democratic Republic of the Congo. While this kind of security itself has no direct relationship to post-conflict reconstruction, the protection of rare animals does protect a source of tourism and secures a method of obtaining foreign currency for developing countries in the reconstruction phase, and therefore is indirectly related to economic recovery in the medium to long term. Other security and escort services taken on by PSCs include the post-conflict escort of government officials (e.g. President Hamid Karzai of Afghanistan). Reasons for this include the retention of the power to act by remnants of anti-government forces immediately after conflicts, and insufficient security capacity of newly-formed militaries and police forces during the process of SSR.

### **Problems when Private Security Companies Become Involved in Post-conflict Reconstruction**

#### (1) Legal status issues

PSC employees have this unresolved issue: do they fall under Article 4.A.4 of the 1949 Third Geneva Convention as "Persons who accompany the armed forces without actually being members thereof (provided that they have received authorization from the armed forces which they accompany)," or do they fall under the category of "mercenary" in Article 47 of the 1949 Protocol Additional to the Geneva Conventions? In the former case, they would retain the rights of being treated as prisoners of war if they were captured by enemy forces, but not so under the latter case. The latter case's definition of "mercenary" has also been criticized as not being in touch with actual realities. There also exists the additional question of just how much meaning "status under international law" has for the remnants of enemy forces in chaotic post-conflict circumstances in the first place.

#### (2) Ethical and disciplinary issues

While PSCs committing illegal activities in an organized way are out of the question, even among PSCs that operate legally, there have been cases of inaccurate accounting procedures and illegal acts committed by individual employees. In addition, the danger of PSCs becoming media for proliferation of particularly firearms and other hardware, as well as military technology and operational ideas, has also been cited. Furthermore, examples of large PSCs subcontracting and sub-subcontracting projects to small and

medium PSCs without the approval of clients have been pointed out. This is a business ethics problem that simultaneously can only promote the proliferation of military hardware and software. Occurrence of such ethical and disciplinary problems will cause PSCs to lose not only the confidence of assistance-providing countries, but also the support of local residents and taxpayers of the assistance-providing countries for post-conflict reconstruction projects in general. As a result, the international community and various countries are attempting to put some types of regulations on PSCs. Moreover, since such circumstances concern the actual existence of PSCs, trade organizations such as the International Peace Operations Association (IPOA) of the US and the British Association of Private Security Companies (BAPSC) have begun to expose problematic PSCs and otherwise carry out self-regulation.

### (3) Issues involving expenses

PSC activities possess the aspect of government outsourcing to the private sector, and the cost effectiveness of such outsourcing has been called into question. However, it has not been determined whether PSC activities are cost-effective even in the case of the US government, which is contracting many PSCs for the reconstruction of Iraq. It is said that when those who have special forces experience or other special military skills become PSC employees, they receive compensation that is several times higher than what they received when they were active-duty military personnel. Furthermore, as mentioned earlier, some PSCs pad their expenses, and audits by users (assistance-providing countries) lack sufficient detail. Given this situation, the determination of whether the outsourcing of services to PSCs is cost-effective is extremely difficult. However, there is also the view that, as Steven Schooner of The George Washington University points out; when work is outsourced to PSCs, high-quality services can be provided with greater flexibility and in a shorter amount of time compared with the government, and if the government were to try to achieve the same flexibility, possibility and speed, then the necessary expenses would exceed those of private sector outsourcing.

### **Future Challenges**

Amid the great global wave of privatization of government services that became marked in the 1980s, even part of national defense and security administration has come to be outsourced to the private sector. Slightly lagging behind this wave has come strong demand on militaries for contribution to post-conflict reconstruction (peace building).

Therefore, that these two would form connections is an inevitability. In this regard, we must be careful concerning the following two points. First is the establishment of transparency. When the US Government Accountability Office (GAO) tried to verify the cost-effectiveness of PSC utilization, the fact that the various government agency users possessed insufficient documentation came to light. In addition to these cost aspects, regarding the content of PSC contracts and scope of PSC activities, certainly government agencies, international organizations, and NGOs using PSCs, as well as private companies that use PSCs must assume accountability as users. Naturally, information disclosure is strongly demanded not only from users but also from the PSC side as part of corporate ethics. Partnering with PSCs will be even more indispensable to government agencies as well as international organizations, NGOs, private companies, and other aid donors toward future effective post-conflict reconstruction implementation. Mutual trust is a precondition toward this end, and information disclosure forms its foundation. In addition, with the disclosure of information, resolution of the aforementioned problems concerning PSCs, with the exception of “legal status issues,” can be expected.

Second is the forming of oligopolies by large US and UK contractors in the PSC market. In particular, demand and supply in the PSC market increased rapidly with the reconstruction work after the end of major combat operations in the Iraq War in 2003, in what was described as the “Iraq bubble.” Now, reorganization of the industry aimed at the “post-Iraq” situation is already in progress. In other words, while post-conflict reconstruction will probably continue to be a source of income for PSCs, the perception that large-scale demand like that for post-war reconstruction in Iraq cannot be expected in the future is spreading through the market. As a result, oligopolization of the PSC market is spreading, as large US and UK PSCs absorb small and medium PSCs. Consequently, the large PSCs are having a greater voice in the market, and there are concerns that the user assistance-providing countries, including their militaries will no longer be able to ignore their wishes. Japan is now being asked to increase its contributions to post-conflict reconstruction and peace building, and when the time to begin a reconstruction project comes, conditions would force it to rely on the PSC market which is currently dominated by oligopolies formed by large European and US companies. From now on, this trend is expected to build in intensity.

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