

A study of the institutional structure of China's overseas establishment of private military companies

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ABSTRACT

Private military companies provide specialized military knowledge, skills and military services of all kinds to the State sector and its governmental agencies (including the military forces to which they belong), international organizations, commercial enterprises and so on. With the development of economic globalization and changes in the international situation, their role in the international arena is becoming increasingly important. For this reason, the gradual development of China's system for the establishment of overseas private military companies on the basis of the experience gained from the establishment of private military companies in other extra-territorial countries deserves greater attention and recognition.

KEYWORDS

Private military companies; Overseas; Laws and policies

1. THE NEED FOR CHINA TO ESTABLISH A SYSTEM OF PRIVATE MILITARY COMPANIES ABROAD

From a domestic perspective, first, China has become the world's second largest economy, the country's economic strength is growing rapidly, the demand for resources and markets is also increasing, the establishment of their own overseas private military companies to protect our overseas interests from infringement is of great significance to the major enterprises that want to better "go out" to improve the core competitiveness; Secondly, compared with the regular army, private military companies have the distinctive features of being efficient, convenient, economical and non-political, as well as the systemic advantages of independent legal persons and corporatized operation modes, which make them the right choice for military powers and overseas use of military forces; Thirdly, the establishment of our own private military companies overseas has an undeniable positive effect on improving our international status and expanding our influence in the world. The U.S. Military Professional Resources Inc. (MPRI), for example, has provided security protection and training services for more than 5,000 African soldiers and more than 120 African leaders, an initiative that has quietly increased the influence of the United States in Africa. From this, we can see that the establishment of private military companies is an inevitable move to participate in international competition and effectively utilize military power in the great power game. From abroad, firstly, the international situation has been unpredictable in recent years, and enterprises are facing more and more difficulties and dangers, especially after the chaos in the Middle East, the survival of some large enterprises overseas is even less optimistic. According to the South China Morning Post, even China's largest security company, Xianfeng Service Group, is lagging far behind other foreign competitors in terms of experience and business scale. For example, by the end of 2022, Xianfeng Service Group will have annual revenues of \$123 million, while British private military company G4S will have annual revenues of about \$20 billion. Meanwhile, according to the United Nations in 2013, the global

demand for private military services is still increasing and is expected to rise by 7.4% per year [1] amounting to \$244 billion by the time 2016 rolls around. Therefore, it is of long-term significance for our country's sustainable and healthy development to seize the global market demand and make more economic benefits; secondly, overseas military companies are a powerful weapon in combating terrorist activities in order to maintain world peace. First, it effectively circumvents asymmetric warfare and makes up for the shortcomings of the traditional regular army in guerrilla warfare and response to terrorist attacks. For example, in the second Chechen war in 1999, Russia learned from the lessons of the first failure and used its Special Forces and elite internal defense forces as the main force to hunt terrorists efficiently and win the final victory. Further, private military companies have expanded the scope of their strikes and are not limited by national borders. Terrorists tend to flee between several countries, and the regular army is prone to political disputes when tracking and fighting fleeing terrorists across borders in the fight against them. Private security companies, on the other hand, can more easily circumvent the political conflicts that arise because of their depoliticized and non-State character.

2. EXPERIENCES AND LESSONS LEARNED FROM THE ESTABLISHMENT OF PRIVATE MILITARY COMPANIES BY EXTRATERRITORIAL STATES

2.1. Enactment Of Relevant Legislation Specifically Regulating Private Military Companies And Effective Supervision And Control Of Their Military Activities

Reasonable and effective control of the various military activities of private military companies is necessary to safeguard human rights and maintain peace. In the United States, for example, private military activities and arms control are combined under the Arms Export Control Act (AECA) and part of the International Traffic in Arms Regulations (ITAR), which regulate the export of military services by private military companies through a licensing system that is known for its strict control. However, both of these laws were introduced in 1994, after the end of the Cold War, and the emergence of private military companies, making them less relevant and more limited. The business scope of private military companies includes military training, military services, logistical support, intelligence gathering, etc., mainly for the service object to provide manpower services, while the two laws mainly focus on the regulation of arms exports, without taking into account the other circumstances that are not necessarily related to weapons, so it seems to be a bit of the end of the matter, and the main purpose is overridden. To sum up, China should learn from the experience and lessons of the United States, set up a law specializing in private military companies, improve the relevant institutional structure, and promote the development of China's overseas private military system.

2.2. Upholding The Humanitarian Spirit And Building The Image Of A Responsible Big Country

The establishment of private military companies should adhere to the principles of upholding human rights and complying with international law in order to safeguard our country's good image and reputation in the international community. The Government should set up a comprehensive monitoring system and a system of accountability for employees, vigorously supervise the effectiveness, size and specific practices of private military companies in carrying out their missions, increase the transparency and openness of their operations, call on the general public to supervise them, and improve the overall quality of their employees. In recent years, although private military companies, by virtue of their professionalism and strength, have accomplished outstanding tasks in various parts of the world on many occasions, and have been recognized and accepted by a number of countries and authoritative institutions, the lack of effective supervision and restraint has resulted

in a spate of unlawful incidents, which have brought disaster to the local people and seriously affected the international image of the countries where such incidents have taken place. The most typical incident was the shooting of Iraqi civilians by the United States company Blackwater in 2007: on September 16, 2007, a convoy of the United States company Blackwater was attacked in the Mansour district of southwestern Baghdad, and the company's personnel then returned fire, resulting in the deaths of 8 Iraqis and the wounding of 13 others; the company's business license was revoked for this revelation, and the United States was harshly condemned by a wide range of countries for this reason. Also in Iraq, other private military companies have been subjected to constant accusations from all sides. NBC television reporters have accused CB employees of driving their cars and intentionally ramming Iraqi civilians, and even of intentionally referring to Iraqi civilians as "terrorists" and shooting them and then going forward to take credit for their actions; Arabian Al-Jazeera television has accused ADS employees of having fired on Iraqi civilian vehicles; and URG employees were exposed as randomly shooting at civilian vehicles in Baghdad, resulting in the killing of two Iraqi women, which at one point led to a fervor of protests within Iraq. [1] All of the above examples provide profound lessons for our country to set up private military companies in the future, and our country should always adhere to the epochal theme of peace and development, safeguard the status and dignity of international law and human rights, and maintain our good reputation and image of a great power in the international arena.

3. THE STRUCTURAL PATH OF CHINA'S SYSTEM OF ESTABLISHING PRIVATE MILITARY COMPANIES OVERSEAS

The tectonic path for China's overseas establishment of private military companies involves multiple levels of consideration, including law, policy, and international relations. The following are possible paths:

3.1. At The Legislative Level

First, China needs to go through a legislative process to formulate a legal and regulatory framework that clarifies the conditions for the establishment of private military companies, their scope of operation, their code of conduct, and their regulatory mechanisms. These laws should be consistent with international law to ensure that the behavior of private military companies does not violate the provisions of international law.

3.2. At The Governmental Level

The Chinese Government needs to establish specialized departments or agencies responsible for approving and supervising the establishment and operation of private military companies. These agencies should have sufficient authority and resources to ensure that the actions of private military companies comply with laws and policies and do not harm national interests and image; at the same time, the government and enterprises need to conduct comprehensive risk assessment and management to identify and respond to security and legal risks that private military companies may face. This includes the formulation of contingency plans, the establishment of safety and security mechanisms, and the conduct of training and drills to ensure the safe and stable operation of private military companies.

3.3. At The Corporate Level

Private military companies need to develop compliance and social responsibility policies to ensure that they operate in accordance with laws, regulations and ethical standards. This includes compliance with the provisions of international human rights law, the laws of war and international humanitarian law, and the protection of the rights and interests of the local population.

3.4. Public Participation And Oversight

Governments should encourage public participation in the oversight and evaluation of private military companies to enhance transparency and accountability. This includes the establishment of complaint mechanisms, the organization of public hearings, and the conduct of social assessments to ensure that the conduct of private military companies is subject to public scrutiny and discipline.

3.5. International Cooperation And Communication

China needs to cooperate and communicate with other countries and international organizations to address the security and legal issues that private military companies may bring. This includes enhancing intelligence exchange, developing international standards and guidelines, and conducting training and technical exchanges in order to maintain international peace and security.

3.6. To Summarize

China's establishment of private military companies overseas needs to be ensured through a variety of means and channels, such as law, policy and international cooperation, to ensure their legal, compliant and sustainable development, while safeguarding national interests and image.

4. CONCLUSION

With the accelerated process of economic globalization, the changing international political situation and the steady increase in the demand for private military in the international market, all these phenomena indicate the necessity and importance of setting up China's own system of private military companies overseas, and the widespread emergence of private military companies after the Cold War also provides a reference and feasibility for China to set up its own private military system. However, as there have been many cases of malicious incidents occurring due to the lack of necessary supervision and the excessive pursuit of economic interests, it is all the more important for the Chinese Government to draw on the lessons learned from the establishment of private military companies in previous extra-territorial countries, to formulate specialized laws and regulations, to improve supervision and regulatory policies, and to strengthen international cooperation in order to promote the development of China's system of overseas private military companies.

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