

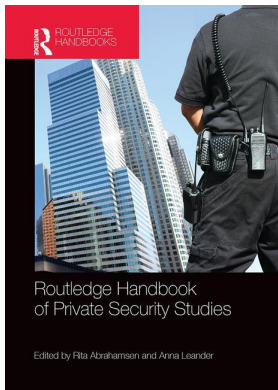
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# 11

## ENDURING CHALLENGES OF SECURITY PRIVATIZATION IN THE HUMANITARIAN SPACE

*Christopher Spearin*<sup>1</sup>

Back in the mid-1990s the United Nations Secretary-General Boutros Boutros-Ghali observed that securing the humanitarian space was ‘one of the most significant challenges facing the humanitarian community’ (Boutros-Ghali 1995: 172). In response to these challenges, CARE Canada and the University of Toronto’s Program on Conflict Management and Negotiation in 1999 offered what was then regarded as a ‘modest proposal’: humanitarian non-governmental organizations (NGOs) might rely upon private security for their protection (Bryans *et al.* 1999: 31, 33–7). Today, NGOs routinely engage private military and security companies (PMSCs) as they operate in increasingly ‘crowded’ environments including states following whole-of-government (WOG) engagements. Certainly, the challenges involved in securing the humanitarian space have evolved in part because of the developed world’s engagement in weak states following the events of 11 September 2001, and NGOs’ interaction with PMSCs is arguably both a cause and a response to these still ongoing and morphing challenges.

With the passage of time and circumstance therefore, it is opportune to take stock of the rationales, debates, concerns, and ramifications regarding NGO/PMSC interaction and PMSC involvement in the larger humanitarian field. As a building block, this chapter first presents the characteristics of the humanitarian space as traditionally understood. It then turns to the contentious debates about how PMCS on their own or through NGO utilization might expand or limit this space. Here the chapter assesses PMSC services to NGOs and the changes regarding risk transference and the duty of care. The chapter then focuses on why PMSCs might wish to be involved in the humanitarian space. It recognizes the shift from seeking industry legitimacy to pursuing commercial opportunities and how this in turn reflects and exacerbates the continued flexibility of the term ‘humanitarian’. This increased flexibility is also in keeping with the actions of many NGOs with more political bents. The chapter concludes by identifying issues for future consideration by policymakers and academics alike.

### **The humanitarian space**

Given that Minear and Weiss (1995) describe humanitarian space as an accordion, it is clear that the concept is constituted in more than just a physically spatial sense. This space expands and contracts along three dimensions. The first concerns the ability to overcome distance or

geographical barriers in order to conduct humanitarian deeds. The second deals with perceptions. This is the degree to which different groups, including conflicting parties, view the NGO presence as acceptable. The third relates to violence, or the threat thereof, which may either prevent NGOs from reaching those in need or be directed at them. Importantly, these dimensions are not walled or separated; matters pertaining to one dimension can easily overlap with another.

NGOs are not a passive audience vis-à-vis the humanitarian space; their relationships, decisions, and actions can impact upon its expansion and contraction. Regarding the security of NGO operations and their personnel then, the archetype is the acceptance approach. Instead of emphasizing reliance upon armed actors, acceptability rests in part on following the humanitarian ethic's three principles of neutrality, impartiality, and independence. Neutrality is meant to prevent advantage being conferred intentionally on an actor or group in a conflict zone. Impartiality ensures that humanitarian assistance is allocated on the basis of need, not on the basis of political necessity or favouritism. Independence allows for humanitarians to avoid linkage to the agendas of others that might somehow impact negatively upon the neutrality and impartiality of humanitarian activity (Spearin 2007). Acceptability also rests in part on developing trust and a sense of solidarity with those in need. This approach is no mean feat as it requires, and capitalizes upon, the time, experience, and ongoing dedication of NGO personnel.

Certainly, the acceptance approach is not the only security stance for NGOs. Van Brabant's (2000) pioneering work acknowledges two more points on the so-called humanitarian security triangle: protection and deterrence. The former is synonymous with hardening and the latter with presenting a counter-threat, including the reliance on armed actors of various sorts. To facilitate these approaches, NGO relationships with other actors that potentially operate under different ethical and moral frames are required. It follows, however, that security measures that physically and/or ideationally separate NGOs from affected populations risk closing the humanitarian space.

### PMSC–NGO interaction

A common lament of NGOs is that other parties' actions have catalysed the contraction of the humanitarian space in different conflict environments over the past two decades. Previously, while humanitarian activities definitely had a political effect, it was unintended and the humanitarian presence was, more or less, respected by warring parties. But in the decade after the Cold War, NGO operations and their personnel were increasingly targeted for a variety of unsettling reasons:

- violent non-state actors did not feel bound to international humanitarian law developed by and for states;
- the perceived primordial nature of ethnic conflict prevented humanitarian work from being viewed in a benign light; and
- NGOs were soft targets possessing resources desirable for conflict continuation and/or personal and group enrichment.

With the so-called War on Terror, international NGOs became additionally vulnerable because they were frequently deemed infidels representative of Western values – despite the fact that they increasingly relied upon indigenous staff precisely because of security risks.

More and more in the twenty-first century, NGOs also accused other actors of limiting the humanitarian space through their instrumentalization of assistance – aid delivered for political

benefit rather than on the basis of need. In Iraq and Afghanistan, militaries provided assistance as part of their larger counterinsurgency strategies. Civilian government organizations did too as part of the trend towards comprehensive or WOG solutions adopted by Western states. This intrusion, from the NGO perspective, has different actors working at cross-purposes and often relying upon the symbolism and characteristics of NGOs. Local beneficiaries and combatants alike increasingly became unsure as to who exactly were humanitarian NGOs or what the humanitarian endeavour actually was. It also heightened sensitivity to the fact that NGOs themselves were major recipients of government largesse and that outside forces wanted to coordinate with them. For NGOs, the humanitarian space shrunk, as they were confused with others, denied access, and/or subject to attack.

The NGO response to these challenges varied. On the one hand, some NGOs attempted to prevent others from closing the humanitarian space. Consider, for instance, the 2007 Guidelines for Relations between US Armed Forces and Non-Governmental Humanitarian Organizations in Hostile or Potentially Hostile Environments developed by NGOs and the US military. This document attempts to structure what militaries should and should not do vis-à-vis the humanitarian space. On the other hand, practitioners such as Ferreiro (2012) suggested that this was the new normal. NGOs would have to examine their own policies and at least be wary of the agendas of others in order to keep the humanitarian space open: ‘The reality is that humanitarians are doomed to coexist with foreign troops in scenarios where donor governments pursue political agendas. Humanitarian agencies must be aware of the cost of this cohabitation, and learn to deal with it’ (ibid.).

The presence of PMSCs in these complex conflict environments strikes at the heart of traditional NGO conceptions of how to keep the humanitarian space open. From one standpoint, PMSCs are yet another potentially armed actor in already dangerous milieus. As PMSCs do not wear state uniforms, parties on the ground can readily confuse their personnel with those of NGOs. From an alternative standpoint, PMSCs might be the best choice for NGOs wishing armed protection: ‘the PSC [private security company] option may be the less sensitive one: rather than being associated with one party or side in the conflict, PSC protection could be seen as the enlisting of an “impartial” actor’ (Holmqvist 2005: 21). Other analysts, however, have pushed back. They have noted several complications for NGO clients:

- PMSC activities may negatively influence local actors and NGO donors;
- indigenous security personnel may implicate NGOs with local conflict dynamics;
- NGOs may be viewed as yet another warring party; and
- PMSC contracts with other clients in, and out, of theatre could impact negatively upon both NGO reputations and their abilities to keep the humanitarian space open.

(Cockayne 2006; Speers-Mears 2009; Spearin 2005)

With a sense of understatement, the authors of an Overseas Development Institute (ODI) report concluded that reliance on PMSCs ‘creates particular vulnerabilities for humanitarian organisations’ (Stoddard *et al.* 2008: 27).

Furthermore, the nature and degree of PMSC utilization suggests that NGOs themselves are adopting the acceptance approach less and less. Certainly, the possibility of a ‘Mad Max NGO’ identified at the turn of the last century – an NGO that uses force independently in order to gain access – did not come about (Donini 1998: 89; Spearin 2007: 9). Regulatory developments taken by PMSCs and by states over the 2000s have established the industry’s defensive, rather than offensive, credentials (e.g. the so-called Montreux Document; see Chapters 24 and 26, this volume). Nevertheless, many NGOs have engaged PMSCs and, as a

result, adopted either protective or deterrent stances, which is not surprising given the military/police pedigree of many firms. These stances are both 'soft' and 'hard'. The former, which are arguably less problematic, include training, risk analysis, and security auditing. The latter include communications, the imposition of physical barriers, and armed and unarmed guards for static sites, convoys, and personnel (Glaser 2011; Spearin 2000). While statistics vary, they underscore a not insubstantial level of NGO reliance on PMSC services. Buchanan and Muggah (2005) estimate that one-third of NGOs employ armed guards, while Singer (2006) contends that 25 per cent of 'high end' PMSCs have humanitarian clients. The aforementioned ODI document found that 35 per cent of surveyed NGO field offices reported PMSC usage (Buchanan and Muggah 2005: 9; Singer 2006: 70; Stoddard *et al.* 2008: 9).

This PMSC utilization by NGOs reflects the broader literatures of risk transference in contemporary conflicts (Carmola 2011). For international NGOs specifically, the transfer of risk is evident in the increased reliance on indigenous staff; compared to expatriates, local personnel have increasingly borne the brunt of casualties (Glaser 2011). With PMSC protective and deterrent approaches now in the mix, risk is transferred to an even broader population such that there is a growing 'gulf between protected humanitarian workers and unprotected beneficiaries' (Speers-Mears 2009: 9). In this vein, relying on PMSCs means that security for NGOs comes not through solidarity, but through 'us-them' distinctions. Those in need are not only relatively unprotected and thus at risk, they are viewed as potentially threatening (Carmola 2013).

This transfer of risk, however, may be the quid pro quo of ameliorating NGO liability and duty of care issues. In this sense, the acceptance approach does not offer similar legalistic or technical refuge for NGOs wishing to avoid lawsuits and maintain their recruitment and retention levels. In the late 1990s, Van Brabant (1999) first raised concerns about lawsuits and insurance coverage given the violence humanitarians faced. Attention to the legal and ethical requirements NGOs confronted only increased during the 2000s (Carmola 2013; Kemp and Merkelbach 2011). Therefore, reliance on soft and hard PMSC services have become a way for NGOs to demonstrate their due regard in very exacting and documented ways. Some industry associations have advocated PMSC soft services so that NGOs can act to mitigate risk and not worry about any of the operational and image concerns linked to hard services noted earlier (Bearpark 2012). Nevertheless, as Speers-Mears describes, court cases and state law such as the United Kingdom's 2007 Corporate Manslaughter Act have entailed that duty of care be demonstrated 'through improved security policies and management, security trainings and consultancies, and contracts involving visible security services in the field' (2009: 6–7).

Initially though, there was no sustained thought and engagement about how humanitarians should go about their interactions with PMSCs. The ODI manual *Operational Security Management in Violent Environments* published in 2000 was the exception to the rule. Many authors noted that NGOs, collectively and individually, could and should have been doing more to manage their contractual relationships and to disseminate good practices both within and between organizations (Spearin 2005; Feinstein International Famine Center and International Alert 2001; Cockayne 2006). There were, however, several rationales for the hesitation, including naivety, competition among NGOs, and the desire for sustained flexibility.

More recently though, efforts have been made to consolidate and advise on good practices (Glaser 2011). This includes a new edition of the ODI manual released in 2010. While the issuing and potential following of guidance make NGOs, by design or default, complicit in the shifts towards multi-actor security governance and offer legitimacy to the PMSC industry (as we shall see below), they are in keeping, for better or for worse, with more technical and recognized security contracting processes followed by other actors including states and international

organizations (e.g. the International Maritime Organization's various guiding documents for ship owners, ship operators, ship masters, and flag states).

### PMSCs for/as humanitarians

Turning the focus to PMSCs, they have worked to legitimize themselves, if not the industry as a whole. While developments in regulation have helped to disassociate these firms from mercenaries, so-called good deeds have helped to lessen the stigma further. As an example, in the mid-1990s, the South African PMSC Executive Outcomes (EO) flew Sierra Leone's national football team to the African All Nations Cup in South Africa. More recently, PMSCs have supported local charities or developed their own to help those in need.

One can also categorize relations with humanitarians as good deeds. Hellinger (2004: 193) contends that firms 'recognize not only an opportunity to do business in humanitarian operations ... they believe such operations would help legitimate their business'. Olive Group (2014), for instance, indicates how its services help multiple actors associated with the humanitarian space. The firm's aim is 'to provide comprehensive, project enabling protective services that secure the lives and ensure the welfare of NGO personnel while also guaranteeing their on-going access to beneficiaries'. Though PMSC activities are mostly technical and not synonymous with the acceptance approach, Blue Hackle (2013) implies solidarity with NGOs and the people they assist: 'NGOs need a team of committed security personnel to protect the lives of not only aid workers, but the lives of displaced families and refugees at risk in highly contentious environments'.

Moreover, while the chapter so far has emphasized contractual interactions, these commitments have not always been necessary. Firms such as EO and Sandline International during their African operations in the 1990s provided many services for free: the repatriation of child soldiers, the escorting of humanitarian convoys, and the provision of logistics, intelligence, and aerial evacuations for NGO personnel. In Iraq and Afghanistan, firms provided unsolicited protection by shadowing convoys, distributed free (in)security analyses, attended NGO security meetings, and offered reduced prices for humanitarian organizations (Spearin 2000; Glaser 2011; Speers-Mears 2009). Such is the perceived value of these relationships that a firm placed 'humanitarian consultancy' on its list of services on the basis of just one phone call (Stoddard *et al.* 2008). In fact, the relationships can even be virtual. The 2011 video game 'Blackwater', for which then Blackwater head Erik Prince offered advice, has gameplay featuring contractors protecting aid workers.

The provision of good deeds has over time led to PMSCs seemingly becoming humanitarians themselves. Back in 2003, the International Peace Operations Association (IPOA), a US-based lobby group for the military and security industry, indicated that member firms were not replacements for NGOs (Spearin 2008). Nevertheless, by mid-decade, representatives of a UK-based industry association trumpeted humanitarian possibilities for PMSCs independent of interactions with NGOs (Bearpark and Schulz 2007). Additionally, in 2010, IPOA changed its name to 'International Stability Operations Association' (ISOA) to reflect the wider array of opportunities for PMSCs. In this vein in 2011, an entire issue of ISOA's industry magazine, the *Journal of International Peace Operations*, was dedicated towards 'humanitarian response'. It dealt with issues as varied as aid, gender, children, development and governance.

Hence, Joachim and Schneiker (2012: 377) openly question whether PMSCs are 'the new humanitarians'; twenty-five per cent of the 200 firms they analysed emphasize their humanitarian credentials. For firms, adopting the humanitarian moniker reflects not only legitimacy requirements, but also the desire for financial self-preservation and enhanced remuneration.

Product diversification would potentially sustain commercial viability and/or make a company attractive for takeover. Moreover, firms could literally bank on state contractual opportunities given their lack of qualms about working for/with states in WOG efforts and increasing concerns from state officials about NGOs doing their bidding (Spearin 2008; Joachim and Schneiker 2012).

This perception of PMSCs as humanitarians underscores the increasing elasticity of the term 'humanitarian'. Not only have firms taken advantage of this flexibility, they have actively promoted it through their service provisions and their discursive techniques (Spearin 2008; Joachim and Schneiker 2012). Arguably, the industry first started its stretching when some firms initiated their 'humanitarian demining' services in the 1990s, a potentially lucrative worldwide endeavour then valued at US\$33 billion (Spearin 2001). Unlike the 'breaching' of minefields simply for military force protection and mobility, humanitarian demining demands a high clearance rate – 99.6 per cent under United Nations standards – so that the local population can have confidence and freedom of movement. However, the usage of the word humanitarian here does not necessarily link with the three elements of the humanitarian ethic (i.e. neutrality, impartiality and independence). This is because humanitarian demining connects firms with larger 'mine action' agendas associated with human security promotion and very political efforts for reconciliation and social and economic development.

This example speaks to Barnett's observation that as the term humanitarian became more popular, 'humanitarianism became caught in the undertow of politics and implicated in broader activities and practices' (Barnett 2003: 415). The result is that one should view humanitarian space as an ideational arena that no one type of organization dominates and whose boundaries are in considerable flux. Put differently, the humanitarian space accordion described earlier might very well be a different instrument playing different music for different people for different reasons.

Indeed, there is a circular logic at play here. To explain, it is important to recognize that these broader practices and their political implications have come not just through PMSCs, WOG work, and the instrumentalization of assistance. NGOs are increasingly complicit too. Without doubt, many NGOs follow the humanitarian ethic. However, the 'humanitarian' NGO community does not have uniform policies among organizations. Though many NGOs cling to the humanitarian handle, they nevertheless also wish to bear witness and to advocate in the milieu in which they operate. This makes a strict adherence to the humanitarian ethic problematic. In a similar way, many NGOs are multi-mandate organizations. Whereas traditional humanitarianism was to comfort those in need, the shift towards development work and good governance efforts sees NGOs attempting to address those factors that initiated the need. In so doing, however, NGOs are engaging in activities that are contestable with an intended political effect (Spearin 2007). Not only does this make the notion of their protection as humanitarians, as traditionally understood, hollow, it might very well catalyse violence against these NGOs. The linking of development and governance activities and the changes this entails for the humanitarian space do not lend themselves well to the protection of NGO personnel and their operations. Hence, for multi-mandate organizations, the acceptance approach becomes untenable, hence the search for other security solutions, manifest particularly in greater opportunities for PMSCs.

### Conclusions and future issues

With NGOs now delivering more assistance in terms of value compared to that distributed by the United Nations system, it stands to reason that appreciating the (in)security of NGOs

personnel and their operations is vital (Perrin 2012). In large part, this can be done through considering the debates and issues related to PMSCs vis-à-vis the humanitarian space as this chapter has shown. On the one hand, contemporary NGO insecurity relates to the complicated, multi-actor conflict environments in which organizations have found themselves. The multiple agendas of different parties in modern conflicts – state and non-state, domestic and foreign alike – have revealed the acceptance approach's limitations. In turning to more robust and defensive postures, NGOs have engaged with PMSCs, a not overly comfortable relationship as PMSCs embody armed actor proliferation and pose challenges for organizations. On the other hand, PMSCs can seek legitimacy for the industry through working alongside humanitarians and they can increasingly present themselves as humanitarians. The result is that one cannot conceive of NGOs as being dominant in/over/towards the humanitarian space. The space is being recast by PMSCs, but also by NGOs with their multiplying agendas beyond the mere delivery of assistance according to the humanitarian ethic.

Looking to the future, NGOs as they conduct their work will continue to encounter PMSCs. In the 1990s, states frequently turned to NGOs in less strategically important areas in lieu of more robust engagement directed at military and political solutions. This approach – the antithesis of counterinsurgency and substantial WOG efforts – had several descriptions: 'humanitarian alibi' and 'mobilizing myth' to name but two (Minear 1997; Donini 1998: 81). As Paul (1999: 30) put it, 'relief organisations are increasingly being drawn into situations where assistance activities are not sufficiently supported by efforts to resolve the conflict'. In many cases in the 1990s, PMSCs worked with or alongside NGOs to facilitate their work and thus substantiate the alibi or myth. Looking at the present day, the focus is increasingly on PMSCs as a mechanism for states to follow 'liddism', that is 'keeping the lid on [international security concerns] rather than reducing the heat' (Rogers 2013: 14).

A number of questions are clearly ripe for consideration equally by policymakers and analysts. Will PMSCs be a favoured partner for state directed 'liddist' humanitarian activities given the problems encountered with state-NGO interactions? If so, this will continue to challenge notions of what a humanitarian actor is and does and what sort of actors should be responsible for providing security. Alternatively, does the change in context entail a change in approach? If so, will future engagements see NGOs returning to the humanitarian ethic in order to ensure their security? What issues will arise for multi-mandate organizations? Development work will no doubt remain inherently political and many organizations wish to address the root problems of conflicts. Will this mean greater NGO interaction with firms as intervening forces may no longer be present, at least to provide some sort of stability or top cover? What is more, are NGOs and PMSCs, by themselves or in combination, really a characteristic of liddism given that many are doing more than just helping those in immediate need? Even without significant intervening state presence, it would appear that understandings of humanitarian space will continue to be fluid and mutable.

### **Note**

- 1 The views expressed in the chapter are those of the author and do not necessarily reflect those of the Canadian Department of National Defence or the Government of Canada.

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