Private Security for USAID contractors:

Assessing a market solution for USAID security issues

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Introduction:
The role that humanitarian and developmental organizations play today in international affairs is increasing everyday. They have a willingness to provide help wherever it is needed and are capable of emergency relief in natural and humanitarian disasters and can provide long term developmental aid. These organizations work on a non-profit basis and are a translation of the values of humanitarianism and the respect for human rights of the international community. A number of these organizations receive partial or complete funding on a contract basis from larger donor organizations. The distributor of donor funds for the United States government is an independent federal agency called the United States Agency for International Development (USAID). USAID is an independent agency that provides economic, development and humanitarian assistance around the world in support of the foreign policy goals of the United States and will work on a contract-to-contract basis with non-governmental organizations to provide this.2

The number of non-profit, non-governmental organizations (NGOs) has increased dramatically in the past two decades. Some scholars see their rise in number and scope on the international stage as a sign of the growth of a global civil society and spreading power away from the state to more people and groups.3 While this is an interesting notion, the increase in the number of NGOs and the areas they operate in have indeed been a relatively recent development that correlates mostly to the increase in spending by state-run donor-organizations, and actually means a greater involvement of states in the humanitarian world.

After the collapse of the Soviet Union and the end of the Cold War, many ‘frozen’ conflicts escalated and caused states to fail, civil war and ethnic violence to break out, and caused an increased need and reach for humanitarian aid. USAID has started to employ aid organizations on a contract by contract basis, using principles of marketization and competition to get the most effective use of their funding. However, foreign aid has never been only purely motivated by humanitarianism; during the cold war, developmental and humanitarian aid was mostly distributed to the countries along the lines of the alignment they held. Today too, clear foreign policy objectives have also been set out for these contractors to achieve. The budgets specifically allocated by USAID for bringing developmental aid to Afghanistan and Iraq are good examples of this.

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1 While humanitarian aid is most often associated with short-term disaster relief, and developmental aid with long term aid, this distinction is hard to make in USAID policies where these functions usually overlap. In this thesis I will not differentiate between the two types.


NGOs that are contracted by USAID serve the US foreign policy in achieving goals that are not easily expressed in military objectives. NGOs serve as the fifth column in achieving the objectives of US foreign policy, at least in theory, as they are essential for winning the coveted hearts and minds of the population. USAID, as the developmental fund of the United States, works in great unison with the top military planners in providing aid that helps the US objectives in that area. They target specific relief tasks that can be used to stabilize and consolidate a region after military presence has been established. This cooperation is one of the primary reasons a private security solution has suddenly become attractive for NGOs; for some of them their primary and founding principles are independence and impartiality. Not being dependent on military support could be beneficial towards this goal.

In this thesis I will ask the question if private security could offer a solution for the dangers that humanitarians face in (post-)conflict settings, specifically USAID contractors. To do that I will first look at what the increase of the casualty rates of humanitarian workers have caused. Second I will look at what the downsides of private security in the field might be, and third what the upsides are. In the final chapter I will take a closer look how USAID, as well as the private security industry itself, are developing regulation to deal with the new situation.

As I will explain in the first chapter, new dangers to security have arisen as well in the humanitarian field in the last two decades that threaten not only the well-being of humanitarian workers, but also the people they were supposed to help. Instances of banditry, targeting and criminality have risen sharply in the last two decades. Aid workers have become increasingly part of military strategy in the last few years and a debate is going on in the humanitarian community of whether this is beneficial. Many NGOs have trouble upholding their own ideas and ideals for providing aid out of a paradigm of neutrality and human rights when cooperating too closely with the armed forces. In this thesis I will argue that an unlikely cooperation could provide the solution to some of these security issues. I will propose that the controlled and stimulated use of private security companies (PSCs) by USAID contractors, in specific circumstances, can form a potential solution to the rising dangers and complications in the humanitarian field.

The number of PSCs has increased astronomically in the past decade and now provides a large number of services in and around the battlefield. Just like NGOs, PSCs have become part of a new strategy for the US military. The wave of privatization in many ‘non-essential’ military functions has caused a rush in the market. We could imagine how private security could form a solution to the increased risks that NGOs are under when they operate in conflict zones. We could say that with modern USAID policies the United States has outsourced...
humanitarianism to NGOs on a contract basis, like the military has done with the non-
essential functions that are now supported by PSCs. Essentially they are part of the same
development of marketization in the international sphere. It is not far fetched to argue that
these two very different types of organizations, NGOs and PSCs, could be growing to a closer
relationship.

The development of a closer NGO/PSC cooperation could mean a potential paradox:
Organizations that propagate selflessness and helping those most in need, no matter what,
suddenly would have to work with private organizations who seemingly market their
expertise in violence. To the international public, PSC personnel have gotten the reputation of
being trigger-happy mercenaries in fraud-prone corporations through the numerous scandals
in Iraq and Afghanistan. NGOs seem to be aware of these issues with reputation and remain
skeptical when weighing the option of employing them, but in this thesis I will also show that
the toll of the mounting number of deaths, injuries and kidnappings are slowly moving these
organizations to acceptance of outsourced security. The contradiction between
humanitarianism and private security has prompted much debate amongst scholars and policy
makers and in this thesis I will show what the most acceptable and effective forms of security
would look like, as well as how in some cases USAID is already stimulating this and how it
could benefit by changing some policies.

In this thesis I will focus on the role of subcontracted private security companies in unstable
environments, by which I mean an area where internal political and religious conflict boils
over into violence. Governments in unstable states usually have great difficulty maintaining
the rule of law when institutions are weak and national identity often is fragmented between
different groups. The terms ‘unstable environment’ or ‘unstable state’ are similar to the term
‘weak or failed states,’ which is used by the United States government, and the United States
military’s term ‘degraded environment.’

The discussion of private security is relatively new in academics. The privatization of military
and security services in its current form became apparent in the second half of the 1990s, and
has only really become prominent after the US involvement in Iraq and Afghanistan. One of
the two seminal works on private security is Peter Singers Corporate Warriors which
explored the rise of this new phenomenon of the privatized military industry. Singer wrote
his book in 2003 and although he is a realist, has a skeptical view on the way the industry

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Cornwallis group xiii: analysis in support of policy
would develop if it wouldn’t confront the most glaring gaps in regulation, quality control and in a discussion of its consequences. The second important work on this subject is Deborah Avants *Market for Force*. She also charts the world of private security, but takes an even closer look at what market-mechanisms in security would mean in the context of the international community for non-state actors like corporations, organizations like the UN, and non-profit groups. Avant is somewhat alarmed by the idea that PSCs, along with all non-state actors in the field, are actively infringing on the monopoly of violence of the state and would have a destabilizing effect.

Both authors have a main focus on the use of security contractors by the US military. Written over half a decade ago they are also skeptical and even worried of the tentative implementation of private security in the humanitarian field. In my opinion their analysis on this part is flawed, or at least outdated as it extrapolates the difficulties that the military has had with private security to a new field, failing to take into account the recent development in American regulation that followed the scandals that they described as at the root of privatized security, and are not confident enough that NGOs can overcome their reservations and lack of expertise in this matter.

Like Singer and Avant, many important and often quoted texts on the subject fail to take into account the developing nature of private security in the humanitarian space. James Cockayne, however provides a vivid picture of the state of affairs of private security for aid NGOs in his article *Commercial Security in Humanitarian and Post-Conflict Settings: An Exploratory Study*, by interviewing those involved with the sector themselves. Cockayne uses interviews here to shine a light on the developments in this field, as aid organizations are reluctant to report violence, as this would have implications for the renewal of contracts. He demonstrates that even though the concerns that are raised by Avant and Singer just a few years earlier are of consideration, the introduction of private security has long been fact. Cockayne anonymously quotes Red Cross workers who even admit that they even experimented with the use of these services on the lower levels of organization, even though at higher levels of the organization it was publicly condemned.

In the first chapter I will look at what the consequences are of increased competition in the humanitarian field: donor-organizations like USAID put the pressure of performance based renewal of contracts on NGOs. There are numerous examples of a complete failure of the

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security policies of NGOs in the field, sometimes with grave consequences, that became problematic because of a combination of pressure on performance and lack of security policies. I will also take a look at the historic and ideological background that many NGOs hold and how they often have to make tough decisions on how to run their organizations while honoring their own ideologies and founding principles, sometimes anti-ethical to any tangible security. The article The NGO scramble\textsuperscript{8} by authors Cooley and Ron is a clear account of the inefficiency that contract based aid has caused, specifically in their security. Though this article is merely diagnosing the problems of contract-based aid, and hardly mentions private security, I will argue in this chapter that a possible solution to these dilemmas could only be private security.

In the second and third chapter I will take a look at the pros and cons of the cooperation between USAID contractors and PSCs. The reservations that NGOs hold against the private security industry are not completely unfounded. Practically, the way PSCs operate could possibly cause embarrassment, when a company in one part of the world can cause a scandal that would reflect badly on the company. I will give numerous other examples but will also try to acknowledge that many times PSCs could be quite useful for NGOs if they would operate in a clear contractual and legal framework when expected duties are very clear in advance. Even though many policy papers from the humanitarian sector remain quite skeptical of PSC use, I will also argue that the humanitarian community is gradually becoming more used to implementing at least some extra security measures provided by PSCs.

This of pros and cons debate is split between authors like Benjamin Perrin who I quote from his article On the Edges of Conflict : Humanitarian assistance and the private Security Debate: An international Humanitarian Law Perspective and Christopher Spearin in his article Humanitarian Non-Governmental Organizations and International Private Security Companies: The “Humanitarian” Challenges of Moulding a Marketplace on one side.\textsuperscript{9} They would argue that with better mechanisms on of control, understanding of the field and regulation by USAID and NGOs themselves, PSCs could be the facilitators of aid that would otherwise be impossible to deliver. This is opposed to the most vocal of opponents such as Jean Renouf who argues in his article The Impact of Security on Humanitarian Action that a


marketization of the humanitarian space is probably more harmful than good as their presence
has the possibility to further destabilize the security situation in fragile states and that the
ideological ideals in operating are too great to be overcome to actually be effective. \(^{10}\) In my
opinion, the critics, as well as some of the defenders of PSC use in the humanitarian sector
take views that are too limited of the forms and capabilities a security provider in a market
environment would offer, and they fail to accurately account for the ability of the market to
make sure their services meet the demanded quality. Documents like *Mainstreaming the
Organizational management of Safety and Security: A Review of Aid Agency Practices and a
Guide for Management* by Randolph Martin and Van Brabant in a HPG policy brief that I cite
in this thesis show what a practical implementation originating from the humanitarian world
itself would look like and give a practical solution to ideological dilemmas that USAID
contractors are facing. \(^{11}\)

In the fourth chapter I will take a look at the practical consequences and measures USAID has
taken on regulation and what control mechanisms have been developed in reaction to the
considerations when using PSCs like I described. I will also claim that the role USAID
should take in this development, is one of a greater appreciation of the security issues a NGO
in a conflict zone faces. Their policies for awarding contracts should not only take into
account the security of the workers, but also the long-term benefits and disadvantages for the
NGO as well as the PSC. I will make a recommendation on how they could achieve a better
result and what they can do help the the industry shape itself.

The sources I use in this paper all seem to acknowledge that NGOs seem to be quite secretive
about their actual casualty rates, their use of local and international PSCs, and their current
security issues. However, by looking at several different opinions expressed in humanitarian
policy papers we can manage to piece together a coherent view that suggests humanitarian
organizations are becoming less hesitant in acquiring outside security services as they are
starting to acknowledge that indeed their security situation has deteriorated. When we keep
the source of this information and its sometimes fragmentary nature in consideration, it gives
us an interesting look at how security issues are being considered. A notable exception to this
incompleteness are two memos published on the USAID websites containing the results of an

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\(^{10}\) Renouf, Jean S: The Impact of Security on Humanitarian Action. Translated from : logique d’urgence et
perennite, revue humanitaire noCo14, medecines du monde, printemps 2006. p. 3.

\(^{11}\) Van Brabant, Koenraad. ‘Mainstreaming the Organizational management of Safety and Security: A Review of
Institute. P. 3.
audit of incident reporting and adherence to regulation by NGOs hiring PSCs. The number of incidents reported and further findings on how the practical implementation works offer us a practical insight into the problems that are experienced today.

The two most important private security scholars, Singer and Avant, predicted increased PSC use for NGOs. Though skeptical, their view is that it might be unavoidable and only viable if it is achieved in a clear conceptual framework that ensures humanitarian demands are met. I agree with this consideration and try to demonstrate this in this thesis with some practical examples, as well as in depth analysis of the security culture in the humanitarian world and how USAID can take the lead in finding the best way to achieve this.

In short: this thesis will provide an answer on what the aforementioned framework should look like and what has already practically has been implemented. If humanitarian organizations acknowledge their need for private security company, this thesis would explain what USAID as a donor organization could do, what to look out for, and what the criteria for greatest success are.

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1. A new era of humanitarian aid

There are a number of developments in the humanitarian field that led to a deteriorated security situation. The policies of organisations like USAID, as a donor, are one of the reasons and have had a number of consequences for humanitarian workers. I will first take a look at what caused a breakdown of the old policies that NGOs upheld and what necessitated a new kind of approach to security. In the next paragraphs I will argue that the increase in the numbers of NGOs operating in more dangerous areas caused a rise in casualties amongst humanitarian workers. The policies on rewarding contracts by donor-organizations have only compounded to these dangers.

In this chapter I will argue that the traditional principles that the humanitarian community adheres too are no longer sufficient. Not only has the nature of war, conflict and disaster changed, so have the procedures of aid groups, along with the demands and methods for awarding USAID contracts. I will explain how in the last two decades (American) funding has caused the rise of the number of non-profit relief and development groups in dangerous situations and this rise correlates with an increased danger to the lives of their personnel. In this chapter I will also investigate what in the past few years has been the development that prompted the reconsideration of traditional approaches to this issue, and why the relatively new phenomenon of private security has been proposed as a solution to some dilemmas in security.

1.1 The Proliferation of Aid

Not only have the numbers of humanitarians increased very rapidly in the last few decades, so have their casualty rates. The world in general has become more dangerous but I will explain how after the Cold War the world has become more dangerous for humanitarians.

The main threats Humanitarian NGOs in conflict settings are facing are classified by Perrin, in his article *On the Edges of Conflict: Humanitarian assistance and the Private Security debate*, in four categories: *Accidents*, which encompass being caught in crossfire, being in the wrong place at the wrong time, falling victim to landmines, or aviation and road accidents; *Criminality*, includes theft and embezzlement; *Banditry*, consists armed factions seeking to plunder an aid agency’s assets with an economic value or resorting to hostage taking for ransom in order to feed their war machine or for personal gain; and *targeting*, which refers to deliberate attacks or threats aimed at an agency in order to disrupt its activities or to influence
the behavior of third parties, mainly international actors. This last category is distinct from random combat-zone related violence because in many cases it was clear that they were targeted in some way because they were humanitarian workers, and killing them served a political or strategic purpose. This means that while accidents may be caused by sloppy procedures and preparation, targeting shows undoubtedly that neutrality is no longer recognized.

Even though NGOs are not eager to advertise their problems with security-issues in the field, there is some evidence that suggests that casualties and occurrences such as violence and robbery have increased in the years since the end of the Cold War. During that time aid was usually, at some level, politically motivated and therefore easily accepted by all actors in the field that it was deployed. During the cold war many conflicts were more or less frozen in place, only to erupt in violence in the decades following the collapse of the Soviet Union. Relief organizations are dedicated to providing humanitarian aid work even at risk to themselves. Many NGOs working in the relief community have tried to help civilians in conflict and disaster zones for some time to make sure that people have access to food, medicine and shelter, no matter the circumstances. This changed when in the 1990s an increasing number of responses to increasingly complex humanitarian crises began to take place. Deborah Avant in *the Market for Force* notes the increased danger to relief workers and debates if the increased relief efforts aggravated the suffering it was designed to forestall by upsetting the local balance of power by international involvement in the local situation and politics that affected the balance of power. Organizations that distribute donor-funds like USAID had started basing funding on the criteria of a foreign policy agenda and allowed NGOs to compete for contracts by demonstrating the greatest efficiency in accomplishing these goals. USAID funding serving as a proponent of foreign policy is most apparent when we look at Afghanistan and Iraq in later paragraphs.

As the amount of humanitarian disasters as a result of conflicts such as civil wars have increased in the last decades, so did the number of humanitarian workers. Cooley and Ron explain the rise in sheer size of the humanitarian movement with the following numbers in their article *the NGO scramble*: since 1960 to 1996, the number of NGOs grew from 1,000 to 5,500. In 1992 the total amount of assistance to the developing world channelled through NGOs was $8 billion, representing 13 percent of all development assistance. War-related

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14 Ibid. p. 9.

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relief in particular grew rapidly. In 1989 USAID spent $297 million on humanitarian relief, a figure that had risen to $1.2 billion four years later. The increase of NGOs operating near or within zones of armed conflict correlates with these increased numbers.\textsuperscript{16}

Because of this proliferation of international humanitarian NGOs and their increasing role in providing relief aid, it seems as they are increasingly the subject of uncertainty, competition, and insecurity for all organizations in that sector.\textsuperscript{17} Colley and Ron state that the view that the increase of NGOs is evidence of a robust and capable global civil society is wrong, and that a greater number of organizations don’t necessarily provide more, or better relief. In other words; more isn’t necessarily better. It is also suggested in their article that the marketization of many NGO activities, particularly the use of competition tenders and renewable contracts, generates incentives that produce dysfunctional outcomes. They dispute the popular assumption that market based-institutions in the transnational sector increase NGO efficiency and effectiveness.\textsuperscript{18}

It is hard to get clear numbers for the occurrences of violence against humanitarians in (post-) conflict settings, though, it seems that perception of violence in all its forms (like amongst others; kidnappings, intimidation, injury and death) has increased amongst NGO personnel in the past two decades along with the scale and scope of their activities. This suggests that the humanitarian ethic is no longer automatically respected, and that many NGOs are taking the decision of withdrawing from conflict zones altogether, according to Spearin, describing a very difficult dilemma for humanitarians.\textsuperscript{19} Should lives be risked to save lives? It is clear that both the objectives of the donors, as well as the mandate of the humanitarian movement aren’t served by these developments.

An important indicator of a deteriorating security situation worldwide is that UN personnel increasingly became the victim of violence in the past decade. The UN keeps clear records of incidents and casualties concerning their workers. In more dangerous situations and in complex political, geographical and logistical circumstances, their evaluations of the distress and morale in the field have shown alarming changes. For example, Benjamin Perrin summarizes the attacks on UN staff in his study as follows: ‘From January 1992 to April

\textsuperscript{17} not only by USAID, but also as part of UN missions and recipients of donor money of USAID-equivalents from other countries,
\textsuperscript{18} Cooley/Ron, p. 6
2003, 220 civilian UN staff members lost their lives through the deliberate machinations of perpetrators, only 22 of whom have been brought to justice.’ And ‘Between January 1994 and October 2002, 74 incidents involving hostage-taking or kidnapping involving 262 staff occurred – eight in 2002 in separate incidents in Somalia, the Sudan and Guyana’ and that’s just the most violent indications; ‘This list does not include the growing number of incidents of rape, sexual assault, armed robbery, car-jacking, attack on humanitarian convoys and operations and harassment perpetrated upon UN staff.’ Abby Stoddard, in a HPG policy brief under the title of *Providing aid in insecure environments: trends in policy and operations* quotes several numbers too; between 1997 and 2005 there were 408 separate incidents of major violence against aid workers (killings, kidnappings and armed attacks resulting in serious injuries), affecting 947 individuals. The figures for both incidents and victims appear to show a steep upward trend during the nine-year time period in absolute terms, with a 71% increase in the number of victims and a 92% increase in average violent incidents between the first half of the decade and the second. She also shows data indicating that NGO workers, as opposed to those involved with the ICRC or UN, are at greatest and increased risk. We can assume that these numbers are evidence for a deteriorating security situation and also most likely apply to specific humanitarians such as USAID contractors, especially operating in highly volatile areas like Afghanistan. For example, it is estimated that at least a hundred of their aid workers were killed and sixty-four were kidnapped in Afghanistan in 2010. Numbers like this show the increasing danger the humanitarian community is exposed to. There may be an overall trend of danger for humanitarians, but the data also suggest that the way they operate may

1.2. **New Donor-strategies**

Like I explained in the first paragraph, casualty rates amongst humanitarians have risen. The increase in violence particularly against NGOs stems in part from changes in the strategies of the donors, which incorporated the use of these organizations in their field policies. USAID disburses 25-30 percent of its budget through private groups, as do the governments of Sweden, Switzerland, Norway, and the European Union. Also, in 2000 the UN High Commission for refugees (UNHCR) budget was $1 billion, most of which was disbursed through competitive NGO contracts. The control over the use of money is

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22 Stoddard p. 16
24 Ibid p. 10.
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achieved by introducing a requirement for certain goals. Pioneered by USAID, it fits right in with the idea of marketization as a way to get the most efficient use out of the funds it provides. Donors are increasingly issuing short-term, renewable contracts for discrete aid projects, requiring NGOs to bid competitively and demonstrate concrete results. In this unstable and competitive market type environments, aid contractors cannot take their survival as a given. NGOs accordingly have adopted a business-like mentality in conducting themselves in the field but also are increasingly focused on securing new contracts or renewing existing ones for their financial survival. In 1995, for instance, U.S. government contracts constituted 62 percent of CARE-USA’s total revenue and 54 percent for Save the Children-USA. Without these substantial contributions these organizations wouldn’t be able to operate. With the power this financial dependency creates, we could argue that USAID also gains the responsibility to regulate and monitor the security of their contractors. It seems though, that this is not always the case.

NGOs increasingly compete to raise money from donors and to secure contracts. These contracts are often performance based, renewable, and short term. NGOs are constrained not only by their ethical imperatives and concerns about their proper role, but also by the competitive financial environment and the states that disburse funding. Humanitarian NGOs might not always consider well enough the safety of their own people in the conflict zones or the impact their presence might have on the security of people they were trying to help, in order to sweep negative reporting under the rug because of the possible damage to publicity and donor contributions this might cause. A collective and comprehensive security approach seems very difficult to create in a competitive environment. Other groups may be ready to replace a NGO if it would withdraw in protest like in the example Avant gives of the Goma refugee camps in Congo in 1994 where organizations who were unwilling to operate in the dangerous security situation in the middle of a violent conflict were simply replaced by those who were more willing.

Cooley and Ron argue that some NGOs may resist material pressures -either because of independent patterns, unique organizational cultures, or remarkable leaders and coalitions- and that some may even define themselves by this independence and sometimes allow them to overcome material constraints. On the whole, however, they are pushed towards the competitive model; this is apparent in the proportionally enormous increase of humanitarian aid in Afghanistan and Iraq after the US interventions there and in Central Asia since the fall

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25 ibid. p. 11.  
26 Avant p. 201.
of the Soviet Union, as developments in these areas have a clear role in American foreign policy.\textsuperscript{27}

Some of the problems this dependency on contracts may cause are, according to Perrin, the discrepancy between the desires of the donors and the ideology that the humanitarian organization operates from, the competitive elements of the tenders, and the presence of multiple organizations in an area. Dependencies like this increase NGO problems with security and create self-interested action in organizations along with greater competition, and poor project implementation.\textsuperscript{28} In other words, the humanitarian field has become crowded and organizations are under pressure to deliver. Because the NGOs that are rewarded the contracts often have de facto control over a project’s implementation, they will try and guide the project so that it promotes their own goals, which aren’t necessarily the same as USAIDs. This can create a problem, as Perrin argues, when the project is not going according to the donor’s plan, NGOs or recipients may conceal, withhold, or distort information harmful to their interests. He also notes how most projects are renewed after an evaluation, giving NGOs little incentive to report failing or inappropriate projects.\textsuperscript{29} If NGOs would be entirely truthful about any problems they encountered in the field they might hurt their chances of contract renewal and threaten their own income. Avant again uses the example of refugee camps in Congo to illustrate this; the recipients of aid would appropriate the aid supplies for their own gain, which allowed them to continue the conflict, it was not in the interests of the contractor to report it to the donor-organization.\textsuperscript{30}

Because of this crowding of NGOs in particular fields and cash flow becoming more vulnerable some organizations may seek to undermine competitors, conceal information, and act unilaterally.\textsuperscript{31} As described in the NGO scramble, such negative behaviour is not different from how normal competitive businesses conduct themselves and a clear result of marketization of the sector. Also, different donor-groups have not always communicated their efforts to each other; duplicating work and wasting valuable time, resources, and opportunities for corporations in developmental aid. Cooley and Ron give the example of pension reform in Kyrgyzstan where the contractors for USAID, the World Bank, and ADB all drafted separate efforts so a comprehensive strategy for the use collective recourses wasn’t achieved, instead wasting time and money with individual plans.\textsuperscript{32} They explain that in this way NGOs are pushed into competition by their institutional environment, which pits actors

\begin{footnotesize}
\begin{itemize}
\item\textsuperscript{27} Cooley p. 8.
\item\textsuperscript{28} ibid. p14
\item\textsuperscript{29} ibid p15
\item\textsuperscript{30} Ibid p16
\item\textsuperscript{31} Ibid p. 17.
\item\textsuperscript{32} Ibid p. 23.
\end{itemize}
\end{footnotesize}
within similar sectors against one another in a struggle for survival and contract renewal. Likewise Avant sees this demonstrated in her example of the Goma camp where NGOs were unwilling to make a stand against insecurity and led to corruption and changes in the political control of force led to less security for the refugees in the short and long term. Later in this chapter I will take a closer look at the implications the humanitarian debacle in the Goma camps have had for NGOs.

1.3 Conceptualizing security

The International Council of the Red Cross (ICRC), founded in 1863, has always been committed to provide protection for its personnel by negotiating consent of the parties involved in the conflict. As one of the first humanitarian organizations in modern times it functioned as the original blueprint for aid organizations of today. Throughout the years the effect of the ideas of ICRC on security have been both pragmatic and principled: consent of all parties involved is deemed necessary for the ICRC to get involved, serving as a basis for ensuring security of its personnel and as a way to respect its neutral and impartial mandate. The ICRC operates on neutrality and negotiates the term for access to human relief. The Médecins Sans Frontières movement and its offshoot, Medecines du Monde led by Bernard Kouchner, founded in 1971 and 1980 respectively, expanded on the ideas when they recognized the limitations of negotiated access and the dilemmas of neutrality in the ICRC. Kouchner asserted that his organization had the right to intervene for humanitarian purposes whether or not permission was granted, and many other organizations followed suit. Since then the negotiated access that the humanitarians always had deemed so important was not always guaranteed. Perrin sees in this an important factor in the decline of security for humanitarians. Humanitarian workers in potentially dangerous conflict-settings would not, and could not, count on the local state or other parties involved in the conflict to protect them or ensure their safety.

A number of humanitarian NGOs have traditionally relied on concepts of neutrality and interpret humanitarian law not only as a justification for their actions, but also as a form of security for their mission. Perrin argues that is very likely that NGOs will be operating in environments where their personnel is at risk of falling victim to violence. Concepts such as neutrality, impartiality and independence are traditionally part of the main ethic of humanitarian NGOs and are meant to protect the sanctity of their mission, as well as provide

33 Ibid p. 23
34 Avant p. 202
35 Perrin, p. 5
36 Ibid. p. 5

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some security as they not only are a reflection of the principles an ethics of the organization but also are concepts that help to demonstrate to the local population that they are only there to help and that their presence may be beneficial to them. Christopher Spearin describes the purpose of these principles as follows: neutrality is meant to prevent intentionally advantaging an actor or group in a conflict zone. Impartiality makes sure that humanitarian assistance is given on the basis of need, not on the basis of politics or favouritism. Independence is meant to allow humanitarians to avoid linkage to the agendas of others that might somehow impact negatively upon the neutrality and impartiality of humanitarian activity.

The way NGOs try to ward off violence in dangerous environments by neutrality is called the acceptance strategy. This strategy follows the same principles originally used by the ICRC where the strategy is based on the presumption that the communities and local powers that the humanitarians come into contact with will allow and even support humanitarian activities if these activities are well understood. Randolph summarizes acceptance as basically meaning that those in a position to obstruct humanitarian work must accept and be convinced that it is independent. Acceptance is achieved when the recipients of the aid acknowledge and support the providers.

The concept of Acceptance can be seen as part of a larger model for field security called the security triangle where security is conceptualized along three lines where acceptance is considered along protection and security, which model I will explain in the next paragraph.

1.3.1 The security triangle

NGO security is best explained with the help of this NGO security diagram.

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37 Ibid. p. 4.
38 Spearin, p. 2.
Acceptance strategy in the context of the security triangle means going back to traditional principles and gaining acceptance by stakeholders of the projects. The mission should be communicated well and fully understood by those involved. Avant claims that they not only need the consent of all parties and factions, state and non-state, that are present in the field, but also their involvement in the development. As Spearin explains, they need to be culturally sensitive and respectful. In short: Acceptance is conceptualized in the field with the help of all stakeholders based on and adapted to the situation they encounter, and by actively removing themselves from conflicts by striving to just providing the aid they consider a human right.

While acceptance may be traditionally and conceptually well suited to humanitarian work, another part is protection. The protection part of the triangle takes aim at the issue of making the NGO less enticing a target. In the terms used by Spearin, protection is essentially reducing vulnerability by ‘hardening targets’. Protection includes equipment: communications devices, reliable vehicles and perimeter security for NGO facilities – and clear policies on personnel, finances and purchases, vehicle operations, curfews, no-go areas, communications pyramids and protocols, and security training for new staff. Even though acceptance is important, the protection part in some cases could serve as an extra guarantee that the NGO can still do its work by removing some vulnerabilities. The hardening of a target may have an effect on the local community’s reaction to the NGO, so how it reacts to these measures should be an important consideration.

The final part of the pyramid consists of deterrence. Deterrence includes for Avant: Information-gathering and analysis like discussions of risks and vulnerabilities and briefings. Deterrence also includes the use of guards. Many NGOs prefer unarmed guards with a defensive posture though in some situations, deterrence might also involve military troops to provide the security and access NGOs need for operations. American troops that supported aid organizations in Somalia and Generally UN peacekeeping missions are good examples of this. Different NGOs have different interpretations of deterrence; as Avant explains some NGOs accept only the diplomatic portions of deterrence while others maintain that the threat of violence is something that can be placed within the overall principles of humanitarians

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41 Avant p. 150.
42 Spearin p..5.
43 Spearin p. 4.
44 Avant pp.150-151.
45 Avant p.151.
under some conditions. NGOs should always keep in mind that their security is only part of their mission and not a goal in itself. As Avant states, protecting staff from violence is only a means to an end; in this case allowing movement toward the organization’s mission. The deterrence portion of the triangle is the most controversial and will be an important focus in this thesis, as I will explain how humanitarians have been prompted to reconceptualize security with a greater focus on all sides of the triangle.

1.4 The insufficiency of acceptance

Like I explained in an earlier paragraph, violent conflicts such as civil wars have occurred more often since the end of the Cold War and there has been a more direct focus on rebuilding Iraq and Afghanistan by USAID. Because of the focus USAID puts on Afghanistan and Iraq there is an increasing number of dangerous situations for relief efforts. Avant sketches a bleak view of the deterioration of security. One of these difficulties is the fact that in such environments it is sometimes hard to identify and contact all the parties involved with which to negotiate humanitarian access. These loosely organized groups often had no knowledge or respect for humanitarian law, and it was almost impossible to navigate the complex politics of a large number of non-state actors involved in the conflict. Some conflicts involved attacks on civilians motivated by ethnicity, where the relief assistance was viewed as an opposing factor to be dealt with. In these conflicts completely neutral aid seems impossible and negotiation useless, as a humanitarian disaster for an opposing side might actually have been the goal of one of the parties involved. Also the growing amounts of funds and interests on the international stage allowed for many new humanitarian organizations to launch operations in risky environments that worked in different ways than with the traditional standards and principles of neutrality, thus changing the playing field, according to Avant. Humanitarians might even be in competition with one another for their acceptance by one of the parties in the conflict.

As Randolph explains, the weaknesses of current NGO security comes from setting their priorities. Acceptance may be the most important strategy of security for developmental NGOs, but it is often compromised under timeframes and politics that surround it in which NGO relief efforts take place. In case of emergency deployment, the pressure to get programmes moving may limit the operations ability or opportunity to create a bond with the community. Community involvement is always considered a part of quality programming by

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46 ibid. p. 151.
47 Avant p. 150.
48 ibid. p. 6.
49 Avant p. 147.
50 Randolph p. 5.
NGOs but its importance is second to the considerations like visibility and speed.\textsuperscript{51} NGOs during the Cold War had assumed that their biggest interferences would come from states and their political agendas. Avant notes that at this time they focused on avoiding antagonism with states by demonstrating neutrality in politics and cultivated a reputation for ‘doing good’ among the beneficiaries of their work.\textsuperscript{52} In many areas where the state was weak some groups did not see themselves as beneficiaries though, as who exactly NGOs chose to help and by which means, often affected power relations within an area and thus NGOs were perceived as political in the local context.\textsuperscript{53} Also one of the weak points of this strategy and one of its greatest moral failings is that some stakeholders that NGOs have to cooperate with are very unsavoury. Avant illustrates this by mentioning how some working for humanitarian organizations in the eastern Democratic Republic of Congo argued that the ethics of working with militia forces was one of the most pressing moral issues faced by humanitarians.\textsuperscript{54}

1.5 The collapse of traditional aid

To demonstrate the difficulties that humanitarians might face we can look at the recent history of Somalia. The civil war caused the collapse of any government control over security and safety and eventually led to the withdrawal of UN troops in 1993 after they were attacked by factions that saw their presence as a threat. The completely broken state of Somalia with many different armed factions provided a challenge for humanitarians when thinking of security. Many NGOs were faced with a situation they were unsure of how to handle. The attempts to bring aid are one of the first and more striking examples of the breakdown of the traditional negotiated access and neutrality in the strategy for humanitarian aid-providers in (post-)conflict settings. Somalia as a failed state represented a brand-new and difficult test to traditional interpretations of security. Without a government or authority to negotiate access, the idealistic humanitarian community was forced to either pull out completely, or let go of their traditional way of working, and create alternatives approaches to providing aid. As Perrin puts it, confronted with an enormous humanitarian disaster, humanitarians chose to stay, but several incidents did force them to rethink their security strategy.\textsuperscript{55}

The first of these incidents occurred during the UN mission in 1992 where NGOs, who were an important part of the strategy for providing relief from the drought and famine that plagued the country, became the victim of banditry and extortion by competing warlords. The

\textsuperscript{51} Ibid p. 5.
\textsuperscript{52} Avant, p. 150.
\textsuperscript{53} Ibid. p. 150.
\textsuperscript{54} Ibid. p. 152.
\textsuperscript{55} Perrin, p. 6.
deployment by the United States of 28,000 troops to Somalia with the objective of providing a secure environment for these humanitarian missions followed and allowed more than thirty NGOs to have projects in the country.\textsuperscript{56} Even though this military assistance to security allowed NGOs to do work they had not been able to do before, they did not feel comfortable in this cooperation because it meant such a great deviation from the concept of finding acceptance and support in the local environment as a means of security-strategy. Avant (whose primary point in a \textit{Market for Force} is the difficulties that come with the relation that outside actors have on the monopoly of violence on the state) sees the lack of comfort as an early example of what would become a quite common clash of cultures and ideologies between NGOs and the military.\textsuperscript{57} Avant quotes that the most important criticisms of humanitarians against the military was that they saw the overwhelming force as a classic military attempt to ‘swat a fly with a sledgehammer’ and were frustrated with a lack of integration between security and relief efforts.\textsuperscript{58} The problem, according to her, is that there is a clear difference between goals, interests, priorities and timetables of NGOs and armed forces, as humanitarianism has a undergirding rationale of assistance on the basis of need as an inalienable right, which conflict with the agendas of armed groups in their theatre of operations that are political and collective, In this case both national and international.\textsuperscript{59}

While in Somalia the armed forces of the United States had the mission of providing a secure environment for the humanitarian NGOs to operate in, their roles in Afghanistan and later Iraq were radically different. With a necessity for ‘winning the hearts and minds’ as an important pillar of counterinsurgency, the comments made by Collin Powell as US Secretary of State in October 2001 seem logical when he stated that NGOs were “force multipliers” and part of the “combat team”, which were particularly vexing to the humanitarian community.\textsuperscript{60} The instruments the United States government possessed to achieve the objectives involving the local population were primarily the demands that NGOs would have to meet to be considered a recipient of funds that USAID would distribute. Clear shifts in expectations from the government for the NGOs to function as an extension of foreign and military policy prompted the NGO community to reconsider the way that they would rely on military assistance and would propose that this should be a last resort. Spearin identifies the mentality that where international troops were actually involved in the delivery of humanitarian assistance, this should only be a temporary measure conducted on the basis of dire need that

\textsuperscript{56} Avant p147
\textsuperscript{57} Avant, p.147.
\textsuperscript{58} Ibid. p. 147.
\textsuperscript{59} Spearin p. 5.
the humanitarian community could not immediately address for reasons related to scale, safety, and logistics. Any other involvement would mean the end of the principles of neutrality and impartiality. The strategy acceptance would be given up almost completely for the protection and deterrence under the military.

The increased relationship and dependence between aid and security is becoming almost a necessity. It is also represented by the conduct of the ICRC. In a recent account of this departure from the ICRC's general policy against armed protection, David Forsythe and Barbara Rieffler-Flanagan write in *the international committee of the Red Cross: a neutral humanitarian actor* that in Somalia for the first time in its history the ICRC operated as part of a military mission. This was thought to be the only possible way that starvation could be checked in Somalia. Before this, the ICRC had even demanded that military transports carrying in the relief goods were weapons-free. They also state that the ICRC did not only stop using their traditional approach of getting consent for their mission, but at the same time they even stopped marking their vehicles with their emblem, because “rather than providing security from attack, the emblem had become a target for attacks.”

Not only the ICRC developed alternatives for security in Somalia. Some humanitarians made the controversial decision of associating themselves directly with different factions in the conflict in an attempt to gain access to civilians that otherwise were impossible to reach with aid. With this decision they mostly compromised any objectives of neutrality they might have had because they would have become reliant on the security offered by those factions. Organizations that did not approach individual factions to provide armed guards reportedly lost up to 50% of aid supplies. Also, Western aid representatives that had sought the assistance of local guards provided by these factions were threatened when they attempted to terminate the arrangement, suggesting a protection racket had been established as part of the war economy.

### 1.5.1 A hard lesson

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61 Spearin p. 5. ‘The most significant threat to the actual and perceived neutrality of humanitarian organizations, according to some policy makers, has been agencies calls for military interventions to stop systematic and large-scale human rights abuses, and to open up humanitarian space, and thus creating a symbiotic relationship between them, and weakening neutrality.’ Humanitarian actors’ risk management in complex environments: are private security contractors a solution. Renouf, Jean. p. 2.


63 Forsythe pp. 70-71.

64 Ibid p. 72.

65 Perrin p. 7.
The humanitarian disaster in the camps in Goma in the eastern part of the Democratic Republic of Congo during the Rwandan genocide were an example of how NGO aid can be incompetent in the face of compromised security as well as competition between NGOs. It showed how bringing aid proved more complex than thought in advance and showed that humanitarian aids needed some drastic new approach to security. In Goma the NGOs providing relief were exposed to the grim reality of the failing of their own protocols. As Avant describes in *market for force* in her analysis of the failing of NGO security policies how the dominance of the humanitarian principles were influencing decisions of those who stayed, choosing to work in an insufficient environment rather than retreat. Humanitarian organizations were operating in a highly constrained environment where their ideals may have gotten in the way of their goals. This called into question the use of the relief work; what use were they if they only would create “well-fed dead”. Another dilemma was sharply illustrated by how the response and lack of comprehensive security or control allowed war criminals to mingle with the refugees and afforded the exiled army resources to rebuild itself in Zaire, because it allowed factions to appropriate relief goods and sell them to finance their own purposes. Avant sees this as a complicity of the relief community in the perpetuation of conflict following the genocide in Rwanda that to NGOs reconsidering their roles in the field.66 Avant describes the dilemma as how the presence of humanitarian workers alone already impacted the security negatively because ‘the relief community’s resources allowed forces in the camps to become political powers themselves, reducing functional control of violence.”67 Avant means that the relief there would undermine the state has and that any introduction of outside power or money would change the situation in the field. This would effectively end all neutrality aid workers would have in a conflict, and be in opposition to the principles of neutrality.

Avant describes how despite efforts of the international community to control the violence in Rwanda and Goma, these relief efforts were not able to provide overall security. Even worse, humanitarian aid created violence and chaos in the camps, undermining the ‘functional control of force.”68 Avant makes heavy use of the analysis provided in the article the *NGO scramble* by Cooley and Ron that I also have cited. According to these authors one of the explanations for the behaviour of these organizations is the competition among relief organizations in the Goma-camps. Because the crisis was so huge and all attention was on the camps, the long-term prospects for individual relief organizations depended on their visibility in the relief effort for the Rwandan refugees. They describe how Individual NGOs were

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66 Avant, p. 148.
67 Ibid. p. 193.
68 Ibid. p. 195.
unwilling to take action that would undercut their ability to raise future funding. Opportunities for self-reflection or protest within the NGO community were often passed up due to worries about how it would affect their long-term organizational interests.\textsuperscript{69} The Goma camps were a clear example of these failings.

1.6 An unlikely alternative

When we take a look today at the practices in the field we see how the changes in the thinking of security as based on more than just the acceptance model have become part of policy. Specifically the use of private security companies (PSCs) as part of a deterrence strategy has grown in the past few years. NGOs are faced with difficult decision: they have to overcome their aversion for giving up neutrality for protection by a faction in the conflict or by outside military support, or alternatively pull out of a region. Faced with this decision suddenly the options acquiring the services of an internationally operating PSC can become a viable alternative. They theoretically would help maintain the neutrality of an NGO and help provide access to otherwise unreachable areas and groups by increasing independence on local factors and increasing overall support.

The idea is gradually taking hold in the humanitarian community and many debates on this subject is currently going on. According to Avant, in 1999, for example, the ICRC launched investigations on how these businesses should operate in zones of conflict and in 2004 it began a specific programme of systematic, rather than ad hoc, engagement with PSCs. The ICRC’s own security stance has traditionally been to rely upon the acceptance strategy; it employs armed security, including PSCs, only rarely (for instance, the ICRC employed ArmorGroup in the Democratic Republic of the Congo and Lifeguard in Sierra Leone). CARE Canada, published a report en advising that relief NGOs consider the hiring of PSCs in the wake of the Rwandan debacle to maintain an environment where humanitarians could freely operate.\textsuperscript{70}

Van Brabant in a review of aid agency practices policy brief cites a 2008 global survey of aid that revealed that the contracting of certain security functions to external professionals has become increasingly common among humanitarian operations worldwide.\textsuperscript{71} The use of armed protection, by security contractors, remains the exception though, and is confined to a small number of situations. The most commonly contracted services from PSCs are unarmed guards

\begin{footnotesize}
\begin{itemize}
\item\textsuperscript{69} Ibid. p. 201.
\item\textsuperscript{70} Ibid p. 148
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Private Security for USAID Contractors: Assessing a market solution for USAID security issues

(from local companies) and security training, risk assessment and security management consulting (from international companies). 72 Amongst USAID contractors they not only support development assistance programs by providing physical security for NGO compounds, distribution centres and public events, mobile security for convoys and personal security details, they also provide a myriad of peripheral services such as logistics, intelligence, and liaison. Some PSCs are expanding beyond these services and are involved in election monitoring, community outreach, and development program management. They manage currency exchange programs, conduct community police training, train farmers on how to establish local community watch groups, establish and monitor voting processes, and even dispense humanitarian aid by themselves. 73

The use of private security seems to be a progressively common phenomenon. According to Volpe in a study on USAID contractors, over the past year at least 41% of the major NGOs subcontracted some form of armed protective services (guards, escorts or bodyguards) for one or more of their operations. Still, they are used only as a deterrence, not actively seeking out threats and nullifying them: In some of the most dangerous places such as Darfur, Sudan and Iraq, humanitarian organizations have used private security in only very limited ways if at all, relying more on the tactic of withdrawing, suspending operations and remotely managing their programmes to deal with security threats. 74 The fact that they don’t use alternative methods shows us the persistence of Acceptance strategy even though it might not have a great effectiveness. USAID as an organization was very slow with the implementation of alternatives to Acceptance. USAID ‘went kicking an screaming’, as Volpe describes. USAID contractors were exposed to unnecessary risks, Volpe also states. According to his conclusions USAID has a responsibility to monitor the safety as well as the effects on security the aid-presence has for the local stakeholders. 75 I will argue that private security may provide a market solution for their troubles. As the private security contributions to the humanitarian field grows, their presence becomes more important and might well be suitable as a solution to the failed strategies of aid organizations.

To summarize this chapter, the increased number of casualties in aid organizations cannot only be ascribed to the growth of their number and to the nature of the areas they operate in. The strategies for rewarding contracts by donor-organizations may be seriously flawed, or at least have created some nasty side-effects. These changing situations have caused the

72 Ibid. p. 1.
73 Van Brabant. p. 2.
74 Volpe p. 176
humanitarian movement to reconsider their principles of impartiality and neutrality in their security strategy of acceptance. Private security may be ideologically not the first choice for many humanitarians, but undeniably they have made their entrance in the international humanitarian stage to fill in new demands for security. As long as humanitarian organizations are faced with the options of either leaving, or further destabilize a situation by staying, the debate on the effectiveness of their policies should remain open. We shall discuss the merits of PSC-solution in the next chapters.
2. Downsides to the use of Private Security by USAID contractors.

In this chapter I will explain what the arguments against the use of Private Security by USAID contractors are, and what the prominent problems in the field are. Although it seems that the use of private security has increased the last couple of decades, there are some situations and ideological differences that may suggest that the use of Private Security by NGOs might be neither effective nor desirable. I will look at organizational differences, ideological problems, and some of the dangers to personnel that a reliance on this approach to security might cause. I will also look at the implications for USAID itself.

Technically there are two ways of acquiring private security for NGOs in the field: Recruited locally by the NGOs themselves, or from legitimate international PSCs. Of course international PSCs do trade in knowledge, management and expertise for better hiring locally, but for the sake of the discussion I will try to make a clear distinction between the two types of services. Just like the practice of hiring local guards, there are broader concerns about the impact in the operational field of hiring PSCs. Authors like Peter Singer argue that armed PSC can unintentionally cause an increase the security threats facing humanitarian organizations, both since the introduction of another armed faction inside an already unstable region would only increase the probability of the use of armed force, and because the extra personnel would make the humanitarians less conspicuous.76 In this chapter I will investigate the negative impact that the introduction of outside force in a conflict zone might have and how it will affect the practices of NGOs, as well as how this would affect USAID objectives.

The way USAID and its contractors use PSCs for security is different from the support role they are given by the military. When operating in the humanitarian field PSCs are expected to behave more discreet and with closer interaction with the local population. In this chapter I will investigate if PSCs can match these expectations. Hard data in the form of costs and casualties from NGOs isn’t readily available, since as I explained in the first chapter aid-organizations aren’t eager to give out information that could possible affect the renewal or procurement of future contracts. We still can look at some examples, though, to show how private security use sometimes can complicate a delicate situation even further.

There are five main concerns with private security in the humanitarian field that I will touch upon in this chapter. First the possible consequences to reputation must be considered. PSCs may cause incidents that the humanitarian organization could be associated with, especially

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when proper oversight is lacking. The second concern is that PSCs might be associated with existing factions in the field which would worsen the security situation for the humanitarian personnel. Likewise the third concern would be the involvement with local security, both by NGOs as well as PSCs who sometimes recruit in the field. The fourth concern relates to the problems that poor regulation and control can cause. PSCs don’t operate within the same ideological framework that humanitarians do. Contracts are sometimes shoddy and the international stage makes them difficult for the parties involved to formulate and enforce. Related to this matter is the fifth concern trouble that adapting to market-principles might cause for humanitarians.

2.1 Reputational damage
When discussing NGOs and security we immediately enter into an ideological debate surrounding humanitarian aid. Private security has gotten a reputation of being prone to violations of human rights and international laws, quite the opposite to the humanitarians that strive to promote these values. Even though these companies make an effort to shake off their image as shady mercenaries, they still are treated as a last resort in USAID security policies and even then those involved are not eager to advertise their use. Not surprisingly, when considering the disadvantages of the use of PSCs in the field, the images of the scandals that such companies generated for the US forces in Iraq during the last few years come to mind. Although most likely an exception to the rule, occurrences of shootings, violence and corruption are numerous in the press.

The reputation of hired PSCs and reputational damages they might cause to the NGOs that employ them are a big consideration. In the process of hiring, reputational damage is hard to manage as it can occur not only through of the conduct of the company but also through the actions of individual employees. Their involvement in crimes such as arms trading, sex trafficking etc. are well recorded in Iraq, and they also have a role in arms trading and drug trafficking in Afghanistan. In this way bad publicity may cost a NGO a lot of money, since donor-organizations are unlikely to wish to be associated with groups using disreputable security providers. James Cockayne concludes in his study Commercial Security in Humanitarian and Post-conflict Settings that one of the dangers that is considered most often is that this damage to reputation may not even occur in the context of a humanitarian mission, but perhaps in a completely different setting with different employees working for a different customer as there is a genuine risk of highly negative publicity for organizations operating in

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78 Cockayne, J. ‘Commercial Security in Humanitarian and Post-Conflict Settings: An Exploratory Study.’ 
humanitarian and post-conflict settings as a result of their associations with PSCs that commit abuses elsewhere.\footnote{ibid. p. 14.} In our modern information society and increased scrutiny by the press the consequences of PSC actions are easily imagined. Cockayne quotes one of the aid workers he interviewed as saying that one can imagine that ‘If an IFRC armed guard shoots someone, it will have huge implications for the whole Red Cross movement.’\footnote{Cockayne p14}

NGOs usual hiring conduct is to choose security at the local level, trying to make sure solutions that meet field workers’ needs are found.\footnote{ibid. p. 10.} It remains questionable if these field workers are the ones that are best equipped to make sure their decisions don’t impact the field situation negatively. Still, there seems to be a conscious lack of interest from higher up in the NGOs in their association with PSCs. One example is the lack of appropriate hiring policies at the local level in the field. Many NGOs rely on local (governmental) sources to supply security or take decisions for use of PSCs in the field without clear policies from their organizational headquarters. These rash decisions often generate a security force that is hardly impartial, competent, well equipped, or adequately vetted. Hiring policies in general do not refer to international standards or broader social impacts. It seems that a lack of consideration for the way that security guards conduct themselves in any operational area is very common amongst NGOs.\footnote{Ibid. p. i.} One can imagine that this is part of a strategy of ‘plausible deniability’ from NGOs, where they could easily blame individuals or the lower tiers of their organization for making bad decisions and not having to take any responsibility for dangerous security situations on higher levels of the organization. The revelation that even the Red Cross has hired security in Somalia is quite poignant in this, since the organization has been one of the most vocal critics of private security.

An additional difficulty is the lack of hiring policies is that whenever NGOs acquire the services of a PSC, they risk association with parties to an armed conflict somewhere else. Given the secretive operating procedures of many PSCs, it is difficult for users to determine what other affiliations they might have. The unknown ties that PSCs might have bring risks for the situation in the field while locals might disagree with the acts of these PSC’s operations in other situations and regions. The violations they may have committed in another part of the world are then blamed on the NGO by association. Also they again might risk negative publicity and reputational damages because donors might retract or refuse to extend their contracts.\footnote{Ibid. p. ii.}
There are no comprehensive protocols for NGOs hiring private security. Even worse, Cockayne notes that information sharing on providers’ performance histories, even within NGO families (e.g. between Save the Children US and Save the Children UK), is rare and informal. And that when they do ‘Background checks on providers, their employees and their global affiliations are without exception extremely ad hoc, often limited to discussion by a local security officer with his personal contacts and internet research.’ According to Van Brabant it seems that headquarters is often less informed about PSC usage in the field than they think they are. Policy and guidance from humanitarian organisations on PSC use is not promoted at the interagency level, and for the most part organisations operate with little understanding of the decisions and policies of others. Humanitarian organisations operate in a mutually dependent environment, and the lack of shared security information and policy has an impact on the very population they are trying to help. NGOs don’t seem consider the potential costs of reputational damages. For example, cases such as where the ICRC, according to its members interviewed by Cockayne, have ‘withdrawn from contracts with major international private security companies in Angola and Uganda on the basis of those companies’ problematic activities elsewhere, remain highly exceptional.’

2.2 Association with other factions

There also exists the risk of confusion and association with a military presence. Even though a PSC might very well be hired to allow a NGO to avoid asking for military protection, they still could cause some problems. In settings like Somalia and Afghanistan there are already many PSCs working for the NATO mission and foreign companies. Jean Renouf explains that distinguishing between those contractors that are employed by humanitarian NGOs and those that work for other players in the field might seem impossible for the local population. Cockayne states that NGOs using a commercial security provider may risk associating a group with a party to a conflict because the provider and the party share a style of dress, ethnic or social ties or formalized commercial links, or because personnel working for the commercial provider were previously associated within the party to the conflict. An example Cockayne gives is when World Vision staff was targeted in Somalia in the early

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84 Ibid. p.10.
86 Ibid. p. 3.
87 Cockayne. p. 10/11.
89 Cockayne .p13.
1990s in retaliation for US military interference in the country as the attackers didn’t distinguish the western NGOs from foreign troops. Another of Cockayne’s examples may be how there have been many recent attacks on USAID contractors in Iraq and Afghanistan because of their use of PSCs and cooperation with international coalition forces caused confused their role in the field. Cockayne also explains that the ICRC and MSF deliberately don’t hire (local) PSCs in Afghanistan and Iraq, on the basis that to do so would in fact decrease staff security by risking associating themselves with parties to an armed conflict. 90 While drawing their personnel from a pool of former NATO soldiers and being flexible in their choice of clients most PSCs have ties to both humanitarian NGOs, civilian government reconstruction efforts, and military forces within the same space, making it difficult for local communities to distinguish between all of the different groups and making it hard to remain neutral in their eyes. 91 Some of the locals also perceive PSCs hiring local militiamen as associating themselves with mafia and thuggery. 92

### 2.3 Effects on NGO neutrality

NGOs, from outside of a country’s borders, appear to have effects on the different dimensions of control over violence that work against one another – in some instances, spreading international norms even as they undermine functional control and/or lead to a redistribution of power that may be inconsistent with these norms, as Rimli explains. 93 Singer sees one of the problems with private security is that if it is used in regions by NGOs who employ either PSCs or acquire local guards, they can cause a temporary increase in order, while the security does little to address underlying causes of unrest and violence and won’t make any lasting change. Instead, Singer claims, it reinforces the idea that power belongs only to those who can afford it. 94 PSCs alter the political reality of force on the ground; they provide security services that are exclusive to a NGO as opposed to inclusive services for the entire population that would be the task of an effective and responsible state security sector. 95 Avant also sees a problem in the fact that NGOs that introduce paid security locally, change the political and social control over violence even more. For example, the NGO fixation on human rights might have consequences within the national stage on which they would reward and operate with. Although they might help some groups within a country, their involvement in these politics is very likely not to last 96 Spearin sees a problem in the fact that when NGOs hire

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91 Ibid. p. 13.
92 Rimli p. 33
93 Ibid. p. 78.
94 Singer p.17.
local guards, they might attract security personnel that otherwise could have worked for indigenous security. In some cases, guard-salaries for locals can be two to four times more than what could be earned in an indigenous security service, like for example the local police or military. Rimli gives an example of this by showing that in Afghanistan a lowest level local PSC employee in the relatively safe north of the country would earn about 30% more than his public sector counterpart. Locally hiring PSCs are blamed for siphoning away qualified personnel and thus obstruct the creation of a strong state authority. In this sense private security is self-perpetuating as it is both causing a weak state security, creating a need as a response for more Private Security.

An example of the disruption hiring locally can cause is how the multitude of international organizations operating in Somalia in the 1990s locally spawned a booming private security business. Cockayne claims that the funds these local companies received were directly reinvested in more weapons and ammunition, thus fuelling the conflict by creating powerful factions in a conflict. Also, in Afghanistan, Provincial Reconstruction Teams (PRTs) and UN agencies both reportedly pay local militias and warlords for protection according to Cockayne. The distinction between buying security and paying protection money is hard to find, and the money in these cases is directed into factions within a country involved in civil war. Rimli illustrates this by pointing out how some strongmen intentionally rolled their militia or private army over into PSCs in order to be able to legitimately keep them around, as it was against the Afghan government’s law to maintain such a group. Buying security is a questionable business, with little tangible evidence of an improvement of the security situation. Cockayne quotes recent research by save the Children UK that suggests that there is no statistical correlation between the presence of PRTs paying for security and the reduction of incidents of violence from third actors in the field. Payment to local leaders could increase their relative power in an area.

Employment as a guard would offer some of these locals a useful economic resource. Cockayne also explains how sometimes, particularly where there are few other means of employment, the effect on the local labor market could be significant enough to upset the local balance of power and may lead to a translation into political or even governmental authority. There is of course the option of paying employees directly, but this potentially

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97 Spearin. P. 19/20
98 Rimli p 21
99 Cockayne p. 17.
100 ibid p36
101 ibid. p. 18.
102 Ibid. p13
could still favor a certain part of the population over another. It could create ethnic or social conflicts, and increase people drawn away from ordinary security.

Paying for protection from state forces also will divert control away from other areas creating a less effective force. After the NGO leaves, it will have made the country only less safe and dependant on outside money. Avant explains that while the state may sometimes be corrupt, going around institutions may introduce new factions that try to get control, essentially weakening the state and making it less capable of doing anything. Where there are only a few local security providers, and withdrawal from a contract seems not to pose a credible deterrence, there is an added risk of becoming involved in cases that are more or less extortion. Since state agencies don’t really have control of violence in these places, these local security providers have the power to set up extensive racketeering. Cockayne illustrates by pointing out how this extortion happened in some cases in the northern Caucasus and in Pakistan.

Likewise, international private security might also change the political reality on the ground by introducing a new force in the field, perhaps upsetting a careful balance of control. NGOs might be safe, but as Singer points out, any threats could be diverted to less protected local poor and refugees. In other words, instead of stealing supplies from aid workers, they would just steal them after these supplies have been distributed. An NGO choosing for the private security option could also make the situation more dangerous for other NGOs in the area, making the others relatively ‘softer’. Cockayne also sees several negative effects: PSCs that use arms to create a deterrent can risk creating a localized arms race. NGOs usually rely on informal mechanisms to discipline local providers and their staff. Where there is no credible alternative provider, price gouging and protection rackets often result.

2.4 Regulation and Control
In the security triangle we discussed in the previous chapter, private security companies are part of the deterrence part of the strategy. Since usually they tend to rely on personnel with military backgrounds they focus on ‘hardening’ targets to provide security from potential threats. In contrast, humanitarian NGOs have traditionally based their approach to security on being embedded in – and acceptance by – their local security environment, in this way removing the threat before it materializes, Cockayne explains. Hardening vs. softening as

103 Avant 2001. p. 76.
104 Cockayne p.12.
105 Singer p.17.
106 Cockayne p3
107 Cockayne. p. 15.
a means of security is a fundamentally different between the two basic approaches, and this is why it is sometimes hard to see a fruitful cooperation exist between NGOs and PSCs. The basic goals of NGOs are different than those of PSCs. While NGOs are non-profit organizations; the PSCs are out for profit. Also, as Avant notes, while firms may have market incentives not to abandon their posts or jump ship for better paying contracts elsewhere, their employees often do not. Singer says that operations will thus depend on troops, unaccountable to the code of military justice, who make their own personal risk vs. reward analysis. An example of a PSCs retreating from a conflict was Ghurkha Security Guards Ltd. in Sierra Leone, who, when asked to aid in the defence of the country’s capitol, argued that they only had a mandate for providing training (only to be replaced later by Executive Outcomes who specifically did have readiness in the face of combat negotiated in their contract).

NGOs should accept that their private security provider has a different approach to security, and take it into account when they do need PSCs, they need to remind themselves that this is a market –based solution and that they should make clear what their demands and preferences are in their contracts. Singer suggests that when hiring PSCs, humanitarian NGOs must establish clear and competitive contract award processes to identify the best firm for the job at the best price, oversight and management provisions to ensure that the contract goes as planned, and contingency plans for replacing the firm if it or its individual employees fail in their duty. According to Singer, privatisation also raises problems of employee selection and accountability. PSCs do not very often guarantee they hire the cleanest records and most savoury character. This would expose the NGO to the reputational damages discussed earlier.

Another danger is the lack of a clear legal framework: if PSC employees do commit violations, there is little incentive for a firm to turn them in to any authorities, which are often absent in failed states. To do so risks scaring off other prospective employees and clients. Peter Singer gives one example of what happened with the Dyncorp firm that was hired by the US and the UN to provide international police in Haiti and the Balkans. Several of its employees became involved in the sex and arms trade, including its Bosnia site supervisor who videotaped himself raping two young women. None of the employees were ever criminally prosecuted and the whistleblowers were fired. The firm now has a similar contract in Iraq. In this market it must be the NGO’s responsibility to make sure they control and supervise the PSC in the field, and are aware of any threats to their reputation and violations

109 ibid. p.16.
110 ibid. p. 17.
of human rights the PSCs employees may create for the NGO. Proper vetting and screening of the firm is needed before it hires it. One approach to resolve this dilemma according to Cockayne would be for the United Nations and/or umbrella aid organisations to establish a database of vetted and financially transparent firms that have met international standards. This database would have to be constantly updated, with the attachment of military observers and auditors to monitor contracts, recruiting, and operations.\textsuperscript{111} However, the increased competition for donor money between different NGOs may sometimes provide the incentive to keep certain knowledge for themselves. Likewise, such a database would very much depend on the reporting by all involved with private security.

An example of the shoddy demands and control over private security that NGOs might display are the way the conservationist NGO WWF operated in Africa. Avant recounts the basic mistakes of their strategy in \textit{Market for Force}, when she explains how rangers were to be trained to protect nature reservations. The fact that NGOs don’t have much experience in the security sector is identified as one of the great failings. Avant notices a lack of expertise, a concern with their non-governmental role, and common practices within these organizations. These failings hindered this NGOs ability to distinguish between functional and dysfunctional plans to improve guard forces.\textsuperscript{112} The guards were paid and equipped, but they were not educated or trained. Furthermore, pay was not tied to appropriate behaviour. Indeed, it was unclear who had the authority over the personnel.\textsuperscript{113} Avant notes that without standards, a good portion of the guard force was unqualified to carry out many tasks. For instance, guards were unable to field strip or clean their weapons. There were no procedures for basic operations – for instance, weapons were not clean, guards had no first aid kits, and there were no guidelines for safely carrying weapons. Avant also notes that there was no good communications plan.\textsuperscript{114} The guards were still nominally government employees, but with no effective government, there was no one in charge at the top and the NGOs staff had no authority to fire personnel\textsuperscript{115}

Avant writes that these failings were caused by the distinctive organizational culture of the employees of conservationist NGOs. As she describes it, conservationists pride themselves on working on a shoestring and making do with whatever they have to pursue their goals. This emphasis on heroic action to overcome obstacles, though, contrasts with the practices required

\textsuperscript{111} Cockayne p.17.
\textsuperscript{113} Ibid. p.207.
\textsuperscript{114} Ibid. p. 208.
\textsuperscript{115} Ibid p. 209.
for effective security, which centres on standards and routines.\textsuperscript{116} Avant goes on to say that humanitarian NGOs also tend to attract people like who are interested in cooperation and non-hierarchical authority, and suspicious of the use of violence at all, which only increases humanitarian lack of knowledge, as there seems to be an unwillingness to learn from the interactions when they do need private security.\textsuperscript{117} Organizational culture as well as ideological differences could form a formidable obstacle for successful cooperation, as well as communication. This problem would be one of the hardest to solve, in any situation.

2.5 Marketization
Although PSCs claim they are offer market based solution to security problems, the question is how much value they are actually offering in exchange for their compensation. As Van Brabant summarizes, the added value international PSCs have brought to places where they were hired might not justify the cost of their services.\textsuperscript{118} The risk of reputational damages should also be considered against any decisions. NGOs turn to private suppliers because they lack the organisational know-how and time to adequately meet the challenges of deteriorating security environments. They also don’t want to pay for administrative costs of in-house management of such functions and they have a buffer against liability.\textsuperscript{119} A large number of humanitarians seem generally uncomfortable with market-principles, but if they are unwilling to take an active interest in what the costs of security are, they seem to doomed to be short-ended

Cockayne calls the market for private security ‘a sellers market,’ because supply is scarce and contracts are hard to enforce. Cockayne also notes that NGOs do not make adequate use of their abilities to enforce their ideas in the terms of their contracts. He says requiring them to submit to foreign law or enforcement mechanisms is within their power and that it would be very wise to name them as terms to any procurement of service.\textsuperscript{120} Standardization of accountability arrangements, even within an individual organization operating in humanitarian and/or post-conflict settings, is likely to be perceived by many local administrators as “incredible micro-management”. The result is an absence of both formal and informal accountability between commercial providers and their users, heightening the risk that engagement with commercial security providers will produce racketeering.\textsuperscript{121} This lack of requirements is an important argument against their use. Contracts are often unenforceable

\textsuperscript{116} Ibid. p.215.  
\textsuperscript{117} Ibid. P. 215.  
\textsuperscript{118} Van Brabant p. 3.  
\textsuperscript{119} Ibid. p. 3.  
\textsuperscript{120} Cockayne pii  
\textsuperscript{121} Ibid. p12/13
in humanitarian and post-conflict settings, given the common absence of legal institutions.\textsuperscript{122} USAID has been relatively slow in adapting its regulations and provisions where private security is involved. During operations in Afghanistan and Iraq much of the problems were ignored and left to the NGOs to figure out for themselves. In chapter 4 I will take a closer look at the adjustment in control and regulation that have recently been proposed and implemented.

The downside of externalizing security services is that it destroys the knowledge and expertise within an organization. Experience and skill that does exist is no longer needed as all these considerations are outsourced. Ironically this makes them even less equipped to face security problems on their own. The lack of freely sharing information increases this even more, as the pressure for relief contracts increases. Because decisions about deploying PSCs are being made in conditions of limited information and communication, the rationales for using them may not be fully thought through, or might not stand up to close scrutiny. Cockayne sees the lack of harmonised and transparent accounting methods for security costs, should lead to organisations to question the common assumption that contracting out security functions is more cost-effective.\textsuperscript{123} The lack of costs-control could also stimulate corruption and fraud, as both oversight as well as accountability are lacking.

\textbf{2.6. Alternatives}

Even though I talked about the failings of the acceptance strategy in the first chapter, there remains something to be said for acceptance to maintain its most important advantages in the security triangle. Spearin claims that for many, the acceptance model is still viewed as the most effective and principled approach to security in the humanitarian context.\textsuperscript{124} PSC personnel, on the contrary, have garnered experience from state military strategy. Doctrine in the U.S. forces has shifted to allow for greater interaction with civilians, in large part to facilitate counterinsurgency strategies and hearts and minds approaches, a new and prominent characteristic in military doctrine. Retired military personnel now working for PSCs are more inclined to adopt the ‘hardening’ stance towards security. Spearin sees that while some of these measures are somewhat innocuous, such as establishing effective communications procedures in emergencies or adding armor plating to vehicles, more problematic in the eyes of humanitarians are bunkering mentalities that inhibit the delivery of assistance and limit contact with those receiving it.\textsuperscript{125} He also sees how the ties between the military and PSCs remain strong, and the NGOs that would hire private security to escape being part of military

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{122} Ibid. p. 12.
\item \textsuperscript{123} Ibid. p. 3.
\item \textsuperscript{124} Spearin p7
\item \textsuperscript{125} Ibid. p. 8.
\end{itemize}
\end{footnotesize}
strategy are still associating with people who might have strong personal and operational ties with it.126

Randolph offers examples of how the acceptance strategy could be successfully implemented. Randolph explains this by showing how learning that one of the enticements to theft of NGO property by local bandits has been the knowledge that NGOs will not retaliate through vendetta. The NGO International Rescue Committee has figured out that they could reduce this risk by renting vehicles from the local community instead of purchasing new vehicles. An indirect benefit of this approach is that more funds go into the local communities. Actions like this greatly reduce the need for any deterrence to threats. Of course this strategy has its limitations when the aid workers are travelling between locations and don’t have any time to set up any deep contacts with the local community. In these situations, Randolph explains, protection strategies such as sound vehicle protocols governing routes taken, times of travel, communications en route, use of convoys, etc are much more important.127

Though the security triangle suggests that certain strategies can exist side by side, one can imagine how by financing security NGOs have essentially given up neutrality as part of their acceptance. Avant claims that to work effectively toward the values they endorse in this situation, NGOs can’t be blind to the consequences of their actions.128 Outside interference, by international troops or by financing local force, can change the situation, voiding any claims to neutrality.

There are a number of actions NGOs can take to increase security without losing neutrality, though. Randolph suggests training of staff in methods of conflict diffusion, which would be helpful and falls under the protection part of the triangle without conflicting with the acceptance part. Staff needs to be oriented to the NGOs mandate and mission and be able to represent it in a non-threatening way. The deterrence strategy could be used in the interaction between the NGO and the larger political actors who may be able to ‘cajole’ a difficult local actor if it is needed.129 Neutralizing a local actor as a threat is easier said than done, but according to Randolph, some clever diplomatic negotiating with local forces and governments can provide a deterrence part that is already provided in advance. Gaining support from outside forces is different from traditional negotiated access, because the appeal to humanitarian principles and international law are replaced by a threat of retaliation by a bigger political actor. Since this easily could ruin any appeals to neutrality by the NGO,

126 Ibid. p. 12/13.
129 Randolph p.7
Randolph suggests local personnel, or individuals with experience and networking capabilities in these areas, could be best suited to provide a recommendation on how to implement these strategies in the field they operate in. These individuals should consider all aspects of security (acceptance, protection and deterrence) in their assessments.  

NGO security is too often seen in terms of military operations. The language that accompanies this thinking tends to cast security problems as obstacles that need to be overcome and neutralized. The truth is, many situations require a NGO to be flexible, sometimes neutral, sometimes just plain careful in a conflict settings. If a NGO would spend more time and expertise on assessing a specific situation they could accomplish a lot more with technology, negotiating, inter-agency communication and studying the dynamics of community support. Private security is always a last resort, and should not mean that a NGO gives up it autonomous capabilities of threat assessment and management, otherwise they might find themselves at the mercy of a unkind market and must give up more of their ideals than they initially bargained for. Renouf suggest some of the organizations that might be too small to be able to afford in-house expertise should strive to set up greater communication and cooperation between organizations. Renouf also suggests the locally acquired staff is more often the victim of violence than those from outside the country for NGOs. We can wonder if a foreign PSC can provide the best security for them. We need to remember that NGO staff security is first and foremost a dynamic process, created by the ripples in the pond their presence creates and by the local population that they interact with.

Finally, the use of private security might make an NGO more vulnerable to fraud. The implications of being indicated in corruption, fraud and waste can be very severe for an NGO, as they might lose the support of their donor organizations. Examples of private security damaging the reputation of an NGO would be the allegations that have been made of how in Afghanistan PSCs have bought off safe passage from the Taliban in some areas, which benefited the local warlords and is illegal. Also, several audits have revealed that Department of Defense security contractors frequently have not delivered the services they promised. We can assume that the same might be said for PSCs hired by humanitarians. Most waste and fraud goes unnoticed though, as oversight in places like Afghanistan is very poor.

130 Ibid. p. 7.  
131 Renouf Jean S. ‘Humanitarian factors’ risk management in complex environments: are private security companies a solution?’ p. 12  
132 Renouf, Humanitarian. P. 13  
Private Security for USAID Contractors: Assessing a market solution for USAID security issues

It is clear that the time has passed for a *laissez faire* approach to private security. Bad control over what their contractors are doing in the field could lead to situations that are directly opposite of USAID goals in a region both because of ideological, as well as practical reasons. A pattern of lack of involvement by USAID with the reality on the ground may cause the short-term relief they bring to create long-term problems that may be far more persistent and undermining to the people they are trying to help than they realize. Does this mean that private security for USAID contractors in hostile environments are usually not efficient? I will consider some of the arguments that can be made for their use in certain circumstances in the next chapter.
Chapter 3: Arguments for the use of Private Security

In this chapter I will consider the benefits of using PSCs in general in the humanitarian field and what would be the most effective ways they can be implemented with the help of donororganizations like USAID.

As I explained in the first chapter, humanitarian workers nowadays operate in far more dangerous areas, and at greater risks than a few decades ago. Ideas like neutrality now seem no longer sufficient to protect from dangers such as hostile warlords, organized terrorists and ruthless bandits. Despite good will from NGOs, their lack of expertise and hesitation to formulate clear policies on their role in dangerous situations caused plenty of problems when dealing with security issues. Security in general seems to be a field neglected by humanitarians. While in the previous chapter I took a look at the many problems the use of private security could potentially cause for NGOs when facing the dangers of hostile environments, in this chapter I will look at the advantages a PSC could offer for NGO security issues, and what these services would look like. We will also take a look at the situations when and where private security would give the greatest benefits to humanitarian workers and their dependants.

There is a debate going on in the humanitarian community on the appropriateness of the use of private security by humanitarians, even though their use has become more and more common in the last few years. USAID does not employ PSCs themselves, but they do allow for their contractors to subcontract security in budgets for areas like Afghanistan and Iraq. For many NGOs the option of subcontracting to a PSC is important because this security is often the only way of operating, other than a forced withdrawal. NGOs might expose themselves to particular vulnerabilities because of private security, and requires special attention to contracting, management and oversight. Still, I would argue that when done right, private security could be highly beneficial for humanitarian operations.

In order to explain the benefits of private security for the humanitarian field I will first address the existing misconceptions that exist in the literature and amongst humanitarians. First I would argue that there are ways for humanitarians to have a fruitful and effective cooperation with PSCs if they meet certain standards under international law. Second, I will take a look at the different kinds of quality that are available in the security market, because the existence of high-end firms means that specific services can offer a solution to concerns humanitarians might have. Several security firms have shown in the past to have quality and care for international standards and offer a careful consideration to the possible dangers to
reputation an NGO might face. In a related matter, I will look at how larger humanitarian organizations have already successfully used private security and how this caused a greater acceptance of their use in international circles in the past decade.

In the second half of this chapter I will discuss the specifics of private security in the humanitarian field. The pro’s and cons of hiring locally as opposed to calling in international security forces, for example, are an important consideration. To make sure humanitarians make optimal use of private security, they should consider the different types of services that are offered on the security market. In this case, the benefits of outsourcing expertise in services and personnel for the protection and deterrence parts of security will be discussed. I will also explain how the success of outsourcing security all depends on the willingness of NGOs to make use of market principles when facing security issues. Finally I will argue in that the use of private security by NGOs should be controlled and monitored by larger donor-organizations. USAID has a clear role in demanding that measures are taken on security and have the ability to enforce standards on NGOs when subcontracting security.

This chapter should show that private security is a developing and versatile industry. As I will argue, the most important part of using PSCs for the NGO that hires them is to have a clear view of what they expect in terms of services and quality. As PSCs already have entered the humanitarian field, the focus should be on using them responsible use, not on whether they belong there or not.

3.1 Legal Misconceptions
When different NGO policy makers discuss the delivery of aid, there are differences in both ideologies and definitions of their tasks. However, all differences aside, one of their primary concerns should be safety for the people they are assisting, as well as the safety of their own personnel. There is a lot of disagreement amongst NGOs what would actually entail a successful security policy, both in short as well as long-term, which Perrin describes in his paper On the Edges of Conflict. Withdrawal from a dangerous area, or a refusal to enter altogether, would go against the common humanitarian belief that aid is a human right. Besides that, it would create the possibility that it will affect the chance of being awarded future donor-contracts. As I will explain, PSCs might offer a solution to this. Perrin describes how humanitarian organizations will have varying degrees of comfort with working with the private security industry, depending on the way they balance security concerns with the

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134 Perrin p. 16
principles of neutrality, impartiality, and independence. Still, there should be ways for NGOs and PSCs to overcome their differences and be able to cooperate. I would argue that most literature seems to overlook some of the advantages of such collaborations.

In most academic sources hardly any distinction is made between the ways that a PSC would operate in a military support role and a NGO security capacity. A notable exception is Christopher Perrin who describes the phenomenon in a more practical manner. The clear mandate NGOs adhere to explicitly distances them from the military. PSCs hired by a NGO should have the main purpose of avoiding any conflict by making the NGO less enticing a target or by means of a deterrent by demonstrating the capacity of those involved in the operation to defend themselves if threatened. When a PSC would have to actively engage the threats in order for the humanitarian operation to function, it would not only violate international law, it also would be in clear opposition to the NGO’s main goals. In short, the humanitarian missions fails as soon as more than the threat of force is used.

Many authors I have cited note the difficulties that would exist, but fail to account for the difference in the specific role that the PSC would have. PSCs working with humanitarians would have a different status than, for example, those working in auxiliary services for the United States armed forces in Iraq or Afghanistan. A PSC-employee working with humanitarians would be considered a civilian under international law. In some cases PSCs could be allowed to carry weapons, for as civilians, they do not take direct part in hostilities simply by just carrying light weapons for self-defense against banditry and criminality. Perrin argues that a private security contractor using necessary, reasonable, and proportionate force to defend humanitarian personnel, property, and material against banditry, criminality, or unlawful combatants would not be taking directly part in hostilities. As a result, Perrin concludes, protected status for humanitarians under international law should not be in jeopardy in such a situation. I agree with Perrin in that the employment of PSCs should not be an obstacle to the legal status for humanitarians, if it is done with consideration and care for local as well as international law, and all involved are aware of their legal status.

3.2 high-end firms
Most literature also fails to account for the vastly different types and quality of private security providers. For example, some companies only hire former soldiers trained according to NATO standards, others use soldiers that would formerly have been part of Chilean or

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135 Perrin p. 16
136 Notably Peter Singers early work, Renouf, Spearin. In some cases Avant
137 Perrin p. 29
South-African forces. Even though all kinds of nationalities are employed in PSCs working for the US-military in Afghanistan and Iraq, an NGO, even if working on a contract from USAID would have to freedom to look for companies that would be able to offer personnel that would have been trained for peacekeeping and providing aid. When a market solution to the security issues is considered by NGOs, they should use the clear advantages of that market to get it tailored to their demands. In this sense the use of the term private security company should be clearly distinguished from the private military firms in terms of function (as often a single company can provide different services).

Deborah Avant even notes that considerations of reputation and quality would mean that higher end forms would develop to meet this demand. Reputation, adherence to international laws and quality of people would be the most important factors, and she predicts that they should become marketable traits for many PSCs. Avant also predicts that these reputational and operational differences in a market-based environment would cause the emergence of services specifically catered to such demands. High-end firms that cater specifically to the United Nations, NGOs and other upstanding members of international law would distinguish themselves from low-end firms that are less inclined to follow international law and respect human rights.\textsuperscript{138}

The security company ICI, for instance, has provided support for the US government (even earned an award as United States contractor of the year) but also provides similar support for international organizations and aid-NGOs in Africa.\textsuperscript{139} ICI touts its reliance on retired American military professionals and attention to professional military values, while staying within the parameters of doing what it takes to get things done.\textsuperscript{140} Another example are companies like DSL aimed at the high end of the market, providing its services to international organizations such as the UN and the World Bank, NGOs such as CARE, and many private companies that operate in the riskiest environment. DSL had procedures and guidelines to regulate its own actions and appears to have close connections to the British government.\textsuperscript{141}

Avant notes that DSL (now part of ArmorGroup) has operating principles that are advertised for their legal and professional behavior and attention to human rights. Their U.K.-based successor ArmorGroup continues as a PSC that prides itself on working for humanitarian

\textsuperscript{138} Avant p221
\textsuperscript{139} http://www.icioregon.com/index.htm [retrieved: 12 jan 2011]
\textsuperscript{140} Avant p156
\textsuperscript{141} Defense Systems Limited, a precursor to ArmorGroup. Avant p. 170
organizations. ArmorGroup also has a client list that features many respected members of the humanitarian community, including: several United Nations agencies, ECHO, USAID, DfID, ICRC, International Rescue Committee, CARE, and Caritas. ArmorGroup’s track record shows a continued focus on working with respected organizations. Many PSCs make similar claims of cooperating with international institutions of high standings.

Some of these high-end security companies have participated in creating standards for professional behavior, and a structure for monitoring by objective groups. There is an organization for ‘self-regulation’ of international PSCs that provide support for peace operations, namely the International Peace Operations Association (IPOA) which functions as the most important lobbying group for the private security industry in the USA, and has the mission to engage in a dialogue with policy makers about a growing and positive contribution of these firms to the enhancement of international peace, development, and human security. It has developed a code of conduct that maintains the respect for the Voluntary Principles on Security and Human Rights and different international treaties on human rights. Their journal highlights their close relations with NGOs of humanitarian organizations. In the fourth chapter I will continue my analysis of what self-regulation means for the private security industry. Such codes are important to distinguish companies that care about human rights and well-trained personnel from those that operate in more military roles and are inexperienced in the humanitarian field.

Avant notes the network and career patterns between PSCs, NGOs and international organizations as a control mechanism, because these patterns demonstrate the ability and knowledge of the different aspects of their field. They would bring their specific knowledge as well as certain standards to the differences players on the international field. For example, Renouf explains how Atlantic Intelligence & BD consultants have put into place a ‘security training for NGOs working in conflict areas’ lead by an ex-ICRC member. Private security companies are attempting to improve their standing in the humanitarian community. Wackenhut Services Inc. offers annual ‘humanitarian awards’ to some of its employees. Renouf even mentions how a private security company named itself ‘Sécurité Sans Frontières’ (security without borders), an obvious allusion to the ‘sans frontières’

142 Perrin p. 21
143 Avant p. 222, Renouf B p. 7
144 Renouf B p. 7
146 Avant p. 223
147 Renouf B p. 7
humanitarian movement. Such developments are the very least indicative of a willingness of the private security sector to meet the demands of the humanitarian movement.

Avant also claims that while it may be difficult for the media or NGOs to track the reputation of PSCs when individuals working to promote security and other goals in conflict zones know each other and predict that their future employment depends on their reputation for professionalism, they should be more likely to behave according to professional norms. As Avant puts it, professional security expertise and networks of individuals become linked and the market splits between less savory firms pulling from a different pool of individuals than more savory firms, the effect of reputation on social control could rise. This would be an important factor to consider when formulating demands by NGOs; if they would make demands on the reputation, conduct and training of the private security troops, they would have the ability to shape the market.

This should prompt a clear role for donors: USAID could set a specific set of guidelines for their contractors hiring a PSC supporting a humanitarian project. USAID is obligated to wisen up on the actual operations, history and reputation of firms. Only companies that carry the expertise experience of former-NATO and UN peacekeeping guidelines and operate with an understanding of international and local law should be approved as a subcontractor’s part of a bid for a USAID contract by a NGO. Even though most NGOs would consider themselves critical of the reputation a PSC might have, this reputation is most often demonstrated by their flexibility, profile and ability to understand the way that humanitarians operate. Sadly, as Renouf says, the cost of the services is often the most important element for an aid agency. According to Renouf humanitarian organizations tend to select the less expensive PSC. The problem here is that, when talking about security, the less expensive is not necessarily the best. Training, equipment and the quality of staff are usually reflected in the prices. Therefore, Renouf concludes, the less expensive companies are usually not those with greater integrity.

In the next chapter I will expand on how the quality in operations of higher-end private security companies are reflected in the mechanisms of self-regulation of the industry and how it should be considered in practical terms by USAID. Overall we can see that the differences in private security could be reflected in quality. High-end firms should be able to contribute to the security of an organization with care and experience.

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148 Renouf B p7
149 Avant p223
150 Renouf B p9
3.3 Proliferation and acceptability

As I described in the first chapter the United States government has considered the use of humanitarian aid as a way to accomplish foreign policy goals. Many humanitarian NGOs are reluctant to give up their neutrality in order to operate. USAID has functioned as the extension of these American foreign policies, sometimes in direct connection to the military. USAID considers achieving policy goals in spreading its budget. At the beginning of the military operations in Iraq, it also attempted to coordinate humanitarian activities under the tutelage of the Joint NGO Emergency Preparedness Initiative.\(^{151}\) Although many projects funded by USAID do not require direct involvement and cooperation with the US military, operating independently would bring its own security concerns to humanitarians. An NGO operating independently in the same environment as the military could be associated with the foreign troops.\(^{152}\)

Counterinsurgency tactics deployed in Afghanistan and Iraq today call for humanitarian and developmental assistance. James Cockayne quotes Lt. Gen. Anthony Zinni of the U.S. Marine Corps as having said, ‘[w]e see humanitarian tasks as full fledged military mission.’\(^{153}\) This echoes the remarks by Colin Powell as Secretary of State on how humanitarians can be a ‘force multiplier.’\(^{154}\) From the traditional humanitarian perspective any involvement of the military in the delivery of humanitarian aid is bad. Even though their involvement shows the armed forces have a greater sensitivity to civilian needs, it also ignores the ideals of neutrality in humanitarianism. The problem here is that not only humanitarians working with the military forces lose neutrality; the military also encroaches on humanitarian turf here by becoming aid-bringers themselves, thereby complicating the distinction between the two. Perrin elegantly describes this as a development of militarization of the humanitarian space, as well as to humanitarization of the military space.\(^{155}\) In order to maintain the principles of neutrality, humanitarians should have a clear distinction between the functions military and humanitarianism. Humanitarians and the military are in no way the same thing, and should have distinct functions in the field.

\(^{151}\) Renouf A p3

\(^{152}\) On the other hand, there could be even greater risks involved for NGOs that operate in failed and weak states where there is no friendly military presence at all.

\(^{153}\) Perrin p14


\(^{155}\) Perrin p14
In order to avoid complications with close cooperation with armed forces, a humanitarian reliance on the PSC industry has emerged to provide the flexibility many NGOs desire. As Spearin describes, when compared to the military option, PSCs are seemingly closely linked to their NGO clients and do not present the political implications and the challenges to independence that might affect upon the neutrality and impartiality of humanitarian assistance. As a donor-organization that should have a final say in these practices, USAID was relatively slow to acknowledge the development of private security. USAID is slowly starting to acknowledge the PSC option as a way for NGOs avoiding getting entangled in political or military disputes and could operate as an independent actor in the field. In places like Afghanistan, government and NATO forces are still responsible for security and stability in the region and for the physical protection of the people of the area. Spearin describes it as the NGOs use of a PSC having the direct goal of only making secure the humanitarians, their compounds, and the delivery of their assistance. The rest is still the responsibility of the government that controls the area and the private security forces would not affect that control in any way.

I must note again that in this thesis I do not merely suggest the possibility of PSC use. In the examples Cockayne gives from the past two decades he shows that United Nations and influential NGO’s like the ICRC have used PSCs to protect their facilities and staff in hostile environments such as Sierra Leone, Somalia, Afghanistan, the Congo and recently Haiti, while environmental groups like the WWF have dealt with the firms in seeking to protect endangered species and reservations from the constant threat of poachers, squatters and smugglers. Examples of other NGOs that have relied upon PSCs are CARE, CARITAS, GOAL, World Vision and Save the Children. Spearin provides a list of PSCs that have worked with humanitarians world wide that includes ArmorGroup, Control Risks Group, Global Risk Strategies, Erinys, Hart Security, KROLL, Lifeguard, MPRI, Olive, RONCO, Southern Cross, and Triple Canopy. These are just a few examples; their number is probably much larger.

The increased use of private security shows that while the debate about the implications may be still going on in some (academic) circles, the practices in the field are already quite developed. In this way, the fact that they are already present in the field becomes an argument.

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156 Spearin p5
157 'Private Security and USAID: Changing Development Realities in Unstable Environments’ the cornwallis group xiii: analysis in support of policy pp. 166-177 p167
158 Spearin p5
159 Singer p15
160 Spearin p5/6 Some of these organizations currently have joined, been taken over by larger players in the field, or have changed their name.
in favor of their use by showcasing responsible use. The more the use of PSCs by
humanitarians becomes acceptable, the better the available control, services and overall
quality will get.

3.4 Local Versus International
Private security is a very versatile industry that offers a number of options for NGOs that are
shopping for services. In this paragraph I look at the differences between local and
international private security forces and how they affect the situation humanitarians operate in.

The option of local security, like I explained in the previous chapter, might be a double edged
sword; while it shows a respect for the local state of affairs and demonstrates that the
organization is willing to work in cooperation with local factions, it might also fuel conflict
by making security income a valuable source of profits, which in turn could fuel further
conflict. It also may be hard to tell whether a local security partner is trustworthy. On the
other hand, the local option to security is sometimes highly preferable. In some (post)war-
zones like Iraq and Afghanistan the local networks of security might offer a kind of
legitimacy to the work that the NGO is doing in the area. A highly visible foreign security
presence might antagonize the population, as they can sometimes be hard to distinguish from
regular military forces (indeed, most of them are former military personnel, following the
same procedures). The association of an aid program with those forces might make the NGO
a preferred target as they seem to be a obvious extension of the military presence of any
foreign powers, and provide an easy target for attack and retaliation as opposed to harder
military. Locally recruited troops may help to prevent such associations, or they might help to
prevent aggression altogether by exploiting the reluctance of potential attackers to hurt their
own countrymen or fellow tribesmen.

Local population may benefit in two ways from the security the NGO procures on site: Not
only will extra money be invested into the local economy, if the security is provided by a
(local) government it might help provide security for not only the NGO-operatives, but to the
local population as well (as long as it does not siphon of security resources that would
otherwise have been used by the locals). Locals are considered to be knowledgeable of the
local language, politics and factions in an area. As Cockayne summarizes this idea: local
guards are assumed to promote neutrality because they do not have any affiliation to state and local actors.\textsuperscript{161}

When considering the local option, however, it can be very hard to distinguish different factions, assess the dangers and the impact the presence might have on the long as well as short term situation in the field. NGOs sometimes are driven more by their ideology of humanitarianism and tactics of negotiated access, than awareness of the changes their presence makes on the balance of security in an area. There are many examples where their presence actually fuels violence by favoring one group over the other and fails to be truly neutral, or when reputation and goodwill are destroyed by association with unsavory characters.

Examples of this are most clear in several operations where NGOs operating in a war-torn country or weak state have very little local authority or central government to negotiate with and the local situation with tribal players that are hard to distinguish and a political ties are hard to untangle. According to Cockayne even the Red Cross reportedly let go of their strict rules in Somalia and MSF in Pakistan in favor of negotiated access and hired a small army out of a patchwork of different clansmen, in an effort to ensure humanitarian access for aid convoys.\textsuperscript{162} This still was not enough to avoid being at risk from falling victim to raquetteering and banditry. This approach also caused a local private security business to develop. Poorly managed use of these forces and distribution of funds in these communities might bring the organization into the conflict as an unwitting participant. Cockayne gives an example of how in Afghanistan, reliance on local warlords and militias for security for foreign personnel has helped empower them at the expense of the central government.\textsuperscript{163} Perrin notes a lack of thought given to what armed local guards will do to make a living after these organizations leave: there is a risk that they will turn to criminality, or join one of the parties to the armed conflict.\textsuperscript{164} Another problem would be the power that armed guards would have over their clients and the complete lack of accountability: One of Cockayne’s respondents claim it is not uncommon for escorts to abandon convoys halfway through their duties, demand double payment, or seek to extract other kinds of monopoly rent.\textsuperscript{165} According to Cockayne examples of escorts generating these kinds of protection rackets have happened in Somalia, the Northern Caucasus and Northwestern Pakistan. Cockayne also notes that these

\textsuperscript{161} Perrin p. 19  
\textsuperscript{162} Cockayne p6  
\textsuperscript{163} Ibid pII  
\textsuperscript{164} Perrin 19  
\textsuperscript{165} Cockayne p6
groups running such businesses typically operate covertly, but may use more formal arrangements such as static guarding services as a front.166

Examples like this show the great difficulties that organizations might have in distinguishing the local security situation and how their tactics might have become insufficient in many post-cold-war conflicts. To solve this dilemma, many international security companies have created extensive networks of security expertise and risk assessment. They can provide security officers that are aware of the situation in the field and can assist and give advice to the NGO to set up local operations with the security they need. Such a network of knowledge and skill does not necessarily need to be procured from the private sector. Some initiatives have risen by different networks of NGOs to share information on the security situations in different areas.

While some larger organizations like the ICRC may be able to afford an in-house security officer, smaller NGOs could possibly benefit by outsourcing the skill and knowledge needed to deal with local factions to PSCs and let them provide security. These options would make sense from a market point of view. The question is raised if a PSC would be able to fill in the gaps of a NGOs in-house security or if it would completely replace it. As Spearin argues, success of NGO collaboration with PSCs involved locally are dependent on how experiences are shared and success is evaluated.167

While there is the argument that reliance upon indigenous personnel may lead to greater approval by local populations, something that would be of great value for NGOs, there are some concerns. For example, it does not necessarily follow that ‘foreign’ equates to reduced approval. In fact, in the case of Sierra Leone, Spearin reports indicated that EO serving as auxiliary forces and were directly involved in the civil war received a level of approval that the country’s military had never garnered. 168 In short: hiring locally is not always better. Sometimes foreign security troops can even be considered preferable (one needs only to look at the approval UNPK forces sometimes get). This is mainly true for countries in civil war, where no strong central authority operates.

To avoid local conflict NGOs could circumvent the local labor-market altogether and turn to foreign guards offered through PSCs. NATO policy is to rely on international guards to

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166 Ibid p7
167 Spearin p. 16
168 Ibid p. 11
protect their bases. Downsides are increased cost and a possible decreased effectiveness of their acceptance strategies.\textsuperscript{169}

Private security usually seems to be the last option considered for NGOs and is even then only to be used as a deterrent. As I explained, NGO hired Security troops can not get involved in conflicts in any way, as this would lead to very shaky ground in terms of the mandate of humanitarianism they are operating on. The judicial grounds that a PSC would operate on (‘operate’ in this case would mean even carrying an automatic weapon) are already shaky at best, and although both a defense of the practice could be easily formulated, as well as the enforcement being almost non-existent, the ideological basis of humanitarians still would make them uneasy on the subject. NGOs should have a clear idea of what would be necessary to improve security and how PSCs would actually do that before they implement it.

3.5 PSC services
In the first chapter I mentioned the security triangle that represents the three main aspects of security (protection, deterrence and acceptance), and that most NGOs would be ideologically inclined to prefer the acceptance part of the triangle over the other aspects. More and more, awareness of the lack of attention to protection and deterrence has prompted other approaches to be developed, and the increasing prominence of private security is one of the most notable.

3.5.1 Protection
When talking about NGO security, protection would refer to the element that most people most readily associate with security, though it is by no means the most important element in the triangle.\textsuperscript{170} Parts of security that NGOs should consider and might subcontract to a PSC would be the provisions they make for them, specifically tailored to the way they operate and mission they are trying to accomplish.

Randolph gives us a good overview of what protection would mean. Protection includes material and equipment needed to provide adequate security such as communications equipment, vehicles and maintenance facilities. Perimeter security devices (walls, barbed wire and alarm systems) could be used to make a NGO compound less enticing a target to potential attackers, but also personal equipment such as flak jackets and helmets could be used. The display of the NGO emblem/logo should be well-thought out; in the previous chapter, for example, I mentioned that the ICRC’s highly recognizable emblem wasn’t displayed on

\textsuperscript{169} Cockayne p. 17
\textsuperscript{170} Randolph p5
supply trucks because it became an indicator for potential bandits that they were transporting valuable supplies.

On the less tangible side, there should be a lot of attention to clear and standardized operational policies and procedure: like consistent personnel policies (Incidents involving disgruntled staff are one of the largest causes of security infractions for NGOs). Clear financial policies, protocols and briefings on communication, use of convoys, visitor screening, discipline for infractions and performance reviews. Also considered should be the coordination of operations: the activities that NGO are able to carry out together, thereby creating a ‘strength in numbers’ strategy,

Protection is always important. As Randolph suggests, good communications, sound policy structures and inter-agency coordination are always the mark of quality operations. If an NGO has not already established a framework for this they should make constructing one a priority, Randolph recommends. 171

3.5.2 Deterrence

Deterrence is the other part of the security triangle. Randolph explains how deterrence can mean the relationship to larger international actors who can exert diplomatic pressure on an NGOs behalf, influencing local authorities and actors who either pose security threats themselves or who are well placed to promote the security interests of the NGOs, but are not adequately doing so. 172 The simplest example of this would be of NGOs that operate in close relation to the US military, as armed forces would have the capacity as well as the mandate to act against, or altogether remove a threat. In short, there would be a military or diplomatic threat of retaliation. In this example of military deterrence the advantages of the neutrality of acceptance are decreased, as I explained earlier.

Using guards is a more physical and direct deterrent strategy at NGO facilities around the world. Oddly, there are very few instances where NGOs have developed strong professional guidelines for this very deterrent force. Uniforms, basic training, incident debriefing and provision of basic equipment (ranging from a night stick and flashlight to VHF radios) are among the cornerstones of this approach. 173 Renouf notes that organizations also could hire a security officer and deploy him in the field, or they could buy security analysis for specific regions from companies that specialize in risk assessment, in order to improve its security,
protection, and implementation of activities. Renouf explains, would consist of weighing the security risks against the importance of the mission, and its chances of success. NGOs may have trouble with this calculation and PSCs could provide the expertise to give meaningful advice and relevant analysis.

Humanitarian organizations decide to hire outside security or security consultants on a mostly subjective basis, dependant on the staff, experiences, operational style, project, funding and ideology, according to Renouf. Randolph explains that it is a matter of identifying what security threats are of the highest probability and greatest consequence to an NGO’s operations and prioritizing resources to these threats accordingly. Avant also points out that deterrence for NGOs is part of a process to reduce and avoid violence instead of the more militaristic approach where the focus is on identification and violent neutralization of hostility. In short, NGOs should be aware of the role they have in conceptualizing security in any area they are operating. Humanitarians should consider that every situation is different and a continued investment in a security policy is needed.

3.5.3 Commercial Aid

The capabilities that the private security industry offers prompt some interesting options in the world of developmental and humanitarian aid: Since private security has become a more accepted phenomenon in the past few years the treatment in more academic circles and policy of international organizations has also increased. For example: although USAID does not directly contract private security—it does allow to be subcontracted by recipients of its funding, though—it sometimes deals with another branch of the private military industry. The role of providing Security Sector Reform (SSR) is often an important aspect of the state building that USAID encourages. SSR is viewed as an essential part of building a strong democratic government in fragile states. Nicole Ball, in a policy paper for USAID, describes how USAID and the state department see that political and economic development cannot be sustainable in countries torn apart by violence and conflict. Elements of SSR, Ball explains, such as promoting stability, countering terrorism, combating international crime and drugs, and strengthening democracy and human rights are conducive to state building and should be promoted by USAID if they want their policies to be effective. Cockayne illustrates this by mentioning how the US has outsourced vetting of the Liberian armed forces to DynCorp (but

174 Renouf B p12
175 Ibid p12
176 Renouf B p3
177 Randolph p6
178 Avant p157
required supervision by a UN member state.)\textsuperscript{180} The same goes for training police and militia forces in Iraq and Afghanistan, where private companies are usually involved.

While it has received relatively little publicity to date, private security companies have received contracts to directly deliver humanitarian assistance, based on their capability to rapidly deploy and provide their own security. Perrin explains how these firms see business opportunities in a vast array of operations, including state-building, supporting and even providing humanitarian and disaster relief, which includes logistics, communications and energy services.\textsuperscript{181} Perrin also reports on how these firms have also reportedly advised and provided protection for displaced populations under the auspices of the UN and the firm MPRI was hired by the U.S. State Department to provide humanitarian relief to the newly Independent States of the former Soviet Union. The firm is said to have shipped over US$ 380 million in humanitarian supplies by 1994 to the region. Perrin concludes that while current examples of private military and security companies delivering humanitarian aid have not been widely publicized it is a phenomenon that bears monitoring.\textsuperscript{182} The development of a situation where private for-profit organizations could be in competition for donor-funds with non-profit groups is becoming a reality. Commercial providers might even be preferable to donors like USAID since they would not be held back by the humanitarian considerations that many NGOs operate under and would be preferred as they would do things that humanitarians might have reservations to doing and in more risky environments. Private aid would transform humanitarianism into a commercial field and, If anything, should be a warning to humanitarian and developmental organizations to make sure they maintain capabilities to provide their services where it is needed most, regardless of the circumstances. Refusing to enter, or withdrawing from dangerous areas would decrease the mandate of the humanitarian movement and open the way for companies that don’t share their ideology and ideals to enter the field.

Likewise, one of the questions frequently asked in academic circles is if the UN would function more effectively with more support of PSC-forces. This development is one of the most interesting debates in the field of private security in academic literature. It would be a shift in the control of power as well as a clear demonstration of the encroachment of private interest in the humanitarian space. UNPK and UNHCR are good examples of branches where their use is easily imaginable to increase; as they already have some cases they used them. PSCs would give these organizations a more efficient way to offer an intervention. Avant

\textsuperscript{180} Cockayne p. 9  
\textsuperscript{181} Perrin p. 15  
\textsuperscript{182} Ibid p. 15
Private Security for USAID Contractors: Assessing a market solution for USAID security issues

quotes Peter Gantz of Refugees International stating; ‘If nations with first class militaries refuse to put their troops in harm’s way in remote locations, and if the UN is saddled with troops from developing nations that are not up to the task, then perhaps the UN should hire the private sector to save the day.’ Clearly, the use of PSCs internationally will only increase; already they have worked with the UN to supply peace operations and the UN has directly contracted with PCS to provide such services as armed guards for convoys

Even the option of using violent interventions to end a conflict has of course been suggested. PSCs as opposed to the presence of UN-peacekeeping missions. PSCs, when considered purely on cost-effectiveness, could serve an interesting new role in peacekeeping-missions.

Avant also notes that PSCs have assisted UN operations, but that they could also provide an alternative to them altogether. Well equipped PSCs might be a way to avoid a political debate on the legitimacy and necessity of UN(PK)-operations and take quick action when that is required when humanitarian disasters are unfolding. By offering a tool that works in an array of different forums, private security may reduce the need to work through the political processes that states have set up through multi-lateral institutions, Avant explains. In practice this could mean a possible intervention in the case of the deteriorating security situations in the Goma camps I mentioned in chapter one. The European Union, United States or NATO could also bypass the United Nations when swift actions is necessary, and at the same time could avoid the entanglement that would occur when they would deploy their own forces. In this case, only the financial burden would have to be considered in stead of risking soldier’s lives. It also would give a good opportunity for multilateralism, since individual countries could easily take on part of the financial burden and at the same time keep some distance from the actual operation. This development supports the case for increasing the focus on security in humanitarian operations.

Although these kinds of operations may seem beside the point, I want to emphasize the ways the private security industry and humanitarianism are already closely tied. I would argue that the best way for NGOs to deal with private security is to accept the function they can fulfill in the field and not altogether reject the concept of using them to provide security. If NGOs don’t pay enough attention to the way they operate and increasingly are not able to get aid to areas that would benefit the most, donor-organizations might be inclined to turn to private providers. The best solution to this problem is to pay greater attention how PSCs and NGOs

183 Avant p. 238
184 Avant 238
185 Ibid p238
could work together and combine their knowledge, which in the end would benefit the recipients of aid the most.

3.6 USAID’s role

PSCs will only increase their presence in the humanitarian world. Even though a lot of reservations still exists between them, whether they like it or not, PSCs and NGOs are already increasingly dependent on each other. PSCs will have to adapt to the needs -and market- of humanitarians as the global amount of work is likely to decrease as the conflicts in Afghanistan and Iraq are bound to come to an end. At the same time NGOs will be asked by donor-organizations to fill an increasing role in developmental and humanitarian aid in dangerous areas that serve larger and more political goals as their involvement in United States operations foreign policy. Still, the best way the hesitation that NGOs have should be addressed by donor organizations. The problems that USAID had were mainly ignorance of the security issues. Now that there is a growing awareness of this, the role of USAID should be to apply budgetary pressure to NGOs to take a better look at their security policies. This would be the best way to increase the effective use of PSCs in the humanitarian community.

At the same time, donors have a moral obligation, as Renouf says, to ensure that the NGOs take their security seriously and even force them to hire a PSC to accomplish that. USAID could encourage their contracted NGOs to provide detailed security reports and encourage cooperation between NGOs by sharing experience and knowledge of dangerous areas. These in turn would allow them to formulate better hiring procedures. The hiring and contracting process of private security should be under the guidance of the donor organization as they could be associated in any legal, operational, reputational and strategic damage. This ‘management gap’ could be diminished by creating new policies and analyzing the current practices.

The contracting system that USAID uses also encourages NGOs to tolerate infractions by PSCs. Colly recommends how the short-term contract renewal requirement, coupled with the contractors’ desire to survive, trumps most other concerns, including effective project implementation and frank discussion of project problems. Cooley and Ron explain how contractors also pay for local operating and consulting services where the proper vetting and procedures for bidding for the contract is not transparent. Both recipients and NGO

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186 Renouf A p3
187 Cockayne p2
188 Cooley p21
contractors, however, conceal these and other project problems from donor-organizations under pressure by the possibilities that a contract may not be renewed.¹⁸⁹

As USAID is starting to accept the phenomenon of private security, the control mechanisms they have to monitor responsible and effective use also should increase. This means that USAID as a donor-organization, if it takes it’s role seriously, should be able to enforce standards on their NGO contractors. USAID regulations for subcontracting the situation will be be further discussed in the next chapter. Overall USAID (or donor-organizations in general) should be a positive influence on the way NGOs and PSCs work together.

### 3.7 Realism

Deborah Avant writes that the involvement of non-state actors in the way violence is controlled is most in important in areas where the state is weak. Pessimists argue that this means that the state’s control of violence is being reduced, while optimists see the opportunity for private security to bolster (short-term) functional control. Avant also envisions the rosier scenarios as where the non-state financing combined with the proper behavior of security forces could contribute to greater coherence and the possibility that the local security will be integrated with the prevailing international norms.¹⁹⁰ This could be seen as a way to not only bring security to the humanitarian operations, but as a consequence would also provide SSR to a weak state. One of the benefits to this would be that in the nature of NGOs is a motivation to uphold norms and values in an issue area and thus they would improve the social control of force.¹⁹¹ This development would benefit from a debate on the actual possibility of this scenario, and could pave the way for a better way to use the private security industry in the field. If anything, it should remind us that the promotion of human rights and the promotion of good government should be the first consideration of both humanitarians as well as PSCs.

Whatever the reasons and consequences of the increasing use of PSCs, it seems that the security industry is here stay. All players on the international field could and should find a way to benefit from the principles of the market. As factors such as experience increase and the PSC-industry becomes more prominent in the humanitarian field, acceptance of their use will not only become more common, it will also prompt a more comprehensive use of market-principles and result in services that are specifically adapted to the demands of the

¹⁸⁹ Ibid p22
¹⁹⁰ Avant p. 178
¹⁹¹ Ibid p. 179
humanitarian community. Thus, in turn, it would create more (political) possibilities for an application.
Chapter 4 Regulation and control for PSCs

I have discussed the pros and cons of the use of PSCs in the humanitarian space in the previous chapters and focused on the ideological pitfalls and possibilities. The reality is of course that private security industry is already heavily involved in the humanitarian space. The surge in the use of the private security industry in the last decade has been the subject of much debate and investigation. The truth of the matter is that regulation only follows these developments, in stead of preceding them. This has given rise to scandal, abuse and organizational as well as government action on the private security industry. In this chapter I will first discuss how the process of regulation took shape and how this practically was implemented by USAID in Afghanistan and Iraq. I also will take a look at how the private security industry is itself working on regulating itself. Looking at (self-)regulation will give us a practical look how the pros and cons I discussed come into play. This gives us a better feel for the reality of USAID subcontracted security and the development of regulation to control it in these particular instances.

4.1 Developing regulation and control

The prominence of PSCs on the international stage in the last decade has not been coincidental to changing regulations by the US on outsourcing military capabilities, but is closely related. Even though the private security industry existed in the 1990’s, the American invasions of Afghanistan in 2001 and then the invasion of Iraq in 2003 caused an enormous growth in the number of companies operating in conflict zones in a military-support role. Now that these conflicts are bound to come to an end, or at least prominent American engagement in them, these companies are noticing another possible field where they could market their skills and products: the humanitarian sector. A good amount criticism that the use of PSCs by the US-forces have received in the last few years was aimed at the shaky legal framework they operated in and the many incidents this involved. In Iraq Paul Bremer’s order 17 signed on his last day in office granted all parties associated with the Coalition Provisional Authority immunity to Iraqi law and prompted further confusion on where the PSCs would fit within the context of the conflict.192 Many of the infractions that PSCs performed in Iraq went uninvestigated and unpunished because of the order, which stated among other things that private security contractors were not under Iraqi law.

192 Since American civil and criminal law, as well as means of investigation and persecution clearly were insufficient to cover contractor related events in a different country, this essentially made PSCs in Iraq unaccountable for any misconduct.
The private security industry is a relatively new phenomenon and as such many of the academic sources on this subject still reason from the situation a few years ago. Many authors theorize, predict, and even are outraged by the possible developments for the humanitarian sector, as well as their consequences. However, in the past few years, on at least the legal point of view great strides have been taken. Some of the skepticism from academic sources still holds up, but for a complete picture of the current state of private security policies we should take into account recent developments in both law and control mechanisms.

As I discussed in the previous chapter, the use of PSCs by NGOs is already a reality in the humanitarian field. Likewise, steadily the legislature that supports and controls their use is formed, as often is the case, only in reaction to new practices and situations. USAID seemingly struggled with regulation in a new situation where the security issues of developmental and humanitarian aid changed, as they long where unsure if this would be a practice they were willing to support and did not move fast on regulation within the organization, and as we will see had some difficulties implementing aspects of new government regulation in the past years.

According to Andrew Bearpark and Sabrina Schulz, in their paper *The regulation of the Private Security Industry and the Future of the Marketplace*, one of the difficulties with PSC-regulation is the international nature of these organizations and operations where the differences in legislature differs from country to country as well the services, goals and operations of the companies. This means that any regulatory measures proposed would have to be implemented on several levels: in the company’s home country, country they operate in, and on the international level. As Bearpark and Schulz argue, any measures should mostly concern the conformity and legitimacy of contracts in terms these three levels. A standardized way of licensing for USAID-funded organizations and a willingness to keep oversight and enforce their regulations is a step in the right direction. Of course, without enforcement any attempt at regulation is useless.

The fact that the process of the vetting and bidding for the security subcontracts by USAID-partners has very little transparency, signals the need for improvement. There are several

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194 Ibid. p. 10
examples of how this process has been abused.\textsuperscript{195} However, as Bearpark and Schulz argue, when implementing such regulations it should have to be with a careful consideration of not only the reality of the security issues that would have to be addressed, but also the legitimate business interests of PSCs that may be put at a disadvantage by them.\textsuperscript{196} In other words; if you turn to a privatized industry, you have to be willing to accept both ups and downsides of the market.

Most sources I used in this thesis are recent enough to take new developments into account. The legislative vacuum for PSCs that existed during the early stages of US operations in Iraq and Afghanistan has been partly dissolved by a number of initiatives, but still has some gaps and loopholes.

The development of regulation of the PSC industry in Iraq was first noticeable in the way the Department of Defense handled it. The new counterinsurgency field manual argues that abusing or mistreating the population undermines counterinsurgency efforts:

> Though firmness by security forces is often necessary to establish a secure environment, a government that exceeds accepted local norms and abuses its people ... generates resistance to its rule. People who have been maltreated or have had close friends or relatives killed ... may strike back at their attackers. Security force abuses ... can be major escalating factors for insurgencies.\textsuperscript{197}

In accordance with the manual’s assertion that the local population will ultimately determine the winner of the conflict, abuses and crimes committed by armed private security contractors and interrogators against local nationals may have undermined United States efforts in Iraq and Afghanistan.\textsuperscript{198} This would include not only armed forces, but also USAID implementing partners, who are thus indirectly involved with the government. If we take a closer look at the way that the military refined the use and regulation of PSCs we can see that it has been an ongoing development with some significant overlap with their use in the humanitarian field.

\textsuperscript{196} Bearpark/Schultz, p. 11
\textsuperscript{198} Private Military Contractors in Iraq: An Examination of Blackwater’s Actions in Fallujah, United States House of Representatives Committee on Oversight and Government Reform, Majority staff. September 2007 (http://www.c-span.org/pdf/blackwater100207.pdf)
The Department of Defense has always recognized that it possible for; ‘the potential for problems to arise when placing contractor personnel in a position in which they are likely to be physically harmed or need to employ force, but the Department of Defense relies on the discretion of commanders rather than a clear policy rule to guide the use of contractors in such cases’, and that ‘we can see how this policy may bring security contractors in a difficult legal position on what they are allowed to do and of which jurisdiction they have to acknowledge.’ In short these ad hoc policies mean a maze of random regulation. One type of jurisdiction that eventually was applied to contractor personnel is the Uniform Code of Military Justice, which outlines procedures for prosecuting members of the military who commit crimes in the United States or abroad. Traditionally, Department of Defense civilian and contractor personnel have been subject to the Uniform Code of Military Justice only when they participate in a declared war. In 2006, Congress expanded the jurisdiction of the Uniform Code of Military Justice over persons serving with or accompanying an armed force in the field to include times of a contingency operation. Thus, the Uniform Code of Military Justice may cover Department of Defense contractor personnel in Iraq.

On March 27, 2008, the Department of Defense used that expanded jurisdiction to bring charges against a PSC employee accused of assault with a dangerous weapon against another PSC employee. The employee pleaded guilty to lesser charges at a court-martial on June 22, 2008. A military judge sentenced him to five months of confinement. That was the first conviction of a civilian under the Uniform Code of Military Justice during the current operation in Iraq. However, in practice the application of this law might prove to be more difficult, as ‘Using the (Uniform Code of Military Justice) to prosecute civilians, even during a war, may generate constitutional challenges based on the standards of due process applicable to military courts’, the United States Congressional Budget Office reported in 2008.

Particularly, in Iraq the security of PSCs is administered by two agencies: the US military has control over all of the personnel under the control of the combatant commander, and second the Department of State which is responsible for all US government and nongovernmental personnel under Chief of Mission authority. These responsibilities of the Department of State are delegated to the Embassy Baghdad’s Regional Security Office. The military and Department of State have a shared responsibility for providing oversight and coordination of

\[200\] Ibid. p. 23
\[201\] Ibid p. 23.
their respective PSCs, regardless of whether the PSCs perform their services through contracts with the U.S. Government or subcontracts with the Government’s implementing partners.\textsuperscript{202} Even though there is a distinct difference in the way this control is split, the security companies working for the Department of State were looking at the way they operated with security companies working for the military branch as a guideline in the way they handle regulation.

Recently, Congress required the Secretary of Defense, in coordination with the Secretary of State, to prescribe regulations and guidance relating to screening, equipping, and managing private security personnel in areas of combat operations. One of the most notable legislative reforms was articulated in sections 861 and 862 of this new regulation, called the National Defense Authorization Act for Fiscal Year 2008, enacted on January 28, 2008 (NDAA FY 2008).\textsuperscript{203} In this bill the Secretaries of Defense and State and the Administrator of USAID are required to execute a memorandum of understanding related to contracting in Afghanistan and Iraq like procurement, central registration and accountability, and set out the requirements for oversight of PSCs in areas of combat; background check and oversight of operational personnel and vehicles, developing and reviewing procedures for incident reports.\textsuperscript{204} These regulations were to include tracking, authorizing and accounting for weapons used by PSCs, and reporting requirements whenever a security contractor discharges a weapon, kills or injures another person, or is killed or injured.\textsuperscript{205}

The Department of Defense also has set up the Joint Contracting Command (JCC) in both Iraq and Afghanistan to provide a more centralized management system and to enforce contracting support requirements during ongoing operations. Additional Defense Contracting Management Agency staff has been sent to administer complex contracts.\textsuperscript{206} Also the Department of Defense started developing programs to improve training of uniformed personnel to manage contractors during contingency operations. Additionally, the Army continues to develop handbooks to help guide military personnel who work with contractors regarding the contracting process and their specific roles and responsibilities when coordinating with contractors.\textsuperscript{207}

\textsuperscript{202} Audit of USAID/Iraq’s oversight of private security contractors in Iraq. Audit report NO. E-267-09-002-P March 4, 2009 p. 2 
\textsuperscript{203} http://thomas.loc.gov/cgi-bin/query/F?c110:4.:./temp/~c1104xSRP4:e833889:, [Accessed Feb. 3 2011] 
\textsuperscript{204} NDAA FY 2008, Section 861. USAID/Afghanistan p. 4 
\textsuperscript{205} Schwartz p. 21 
\textsuperscript{206} Schwartz p. 14 
\textsuperscript{207} Ibid p. 15
The USAID/Iraq mission also took prompt action, in response to a government wide procurement policy ruling, to ensure that all of its prime contracts involving a PSC subcontract include a new required clause (FAR 52.225-19), providing general guidelines for armed contractors, including standards on the use of deadly force, training, and hiring. 208 This clause also included a separate provision requiring implementing partners to incorporate the substance of the clause into their subcontracts with PSCs.209

Part of this newly developed regulation mandated that PSCs observing or participating in a serious incident provide an immediate incident report to the Multi-National Corps-Iraq’s Contractor Operations Cell (CONOC), which has responsibility for tracking and coordinating the movement of PSCs throughout Iraq.

PSCs had a set time limit to submit a Serious Incident report, followed by a final written report. The Contractor Operations Cell forwarded these reports to other entities, including the Embassy’s Regional Security Office’s Tactical Operations Center (RSO/TOC) and Multi-National Force-Iraq’s Armed Contractor Oversight Division (ACOD).210 The Department of State made their own guidelines, based on the Department of Defense policies in Iraq to comply with the NDAA FY08: In May 2008, Embassy Baghdad issued a set of policy directives that provided guidelines applicable to all PSCs operating in Iraq under either a contract or subcontract with any Federal agency under Chief of Mission authority and USAID/Iraq assisted Embassy Baghdad in efforts to educate USAIDs implementing partners and their PSCs on the Embassy’s latest policy directives for armed contractors issued on May 18, 2008 (Policy Directives for Armed Private Security Contractors in Iraq).211 Their purpose of these directives, which apply to all PSCs working—either directly or indirectly—with a Federal agency under Chief of Mission authority, was to provide a set of rules and requirements that applied to all nonmilitary PSCs operating in Iraq. To facilitate a dialogue to discuss and better understand these new policies and procedures, in August 2008 USAID/Iraq hosted a presentation attended by its implementing partners and their PSCs, which was organized by the Embassy’s Regional Security Office. This meeting gave attendees an opportunity to obtain clarification on specific aspects of the new policies and discuss other security issues and concerns.212

208 Issued March 31, 2008, by the Federal Acquisition Regulatory Council, a government wide body within the Office of Management and Budget’s Office of Federal Procurement Policy that is responsible for setting rules on Federal procurement and authorizing revisions to the Federal Acquisition Regulation (FAR)
209 USAID/Iraq p. 4
210 USAID/Iraq p. 4
211 USAID Iraq p. 4/5
212 USAID Iraq p. 3
While the process moved relatively slow, it is interesting to see only in the last few years has a comprehensive regulatory framework in policy and law has been achieved. When looking at how these new policies develop we can see the difficulties for a single organization in achieving a solid grasp on developments and that only when all the players in the field cooperate can success be achieved.

In short, control mechanisms of the industry are catching up to new developments. Government legislature may be making great strides, but it is the reality of the developments of private security implementation in dangerous areas that shapes the success of these new rules. As we will investigate in the next paragraphs, the actual implementation of this regulation may prove quite difficult.

4.2 USAID reporting

In several memos to the Office of Inspector General of USAID to the missions in Afghanistan and Iraq a picture is painted of an organization trying to regulate security in the wake of the new developments of the past few years. They offer an interesting and also very a recent look at how the organization deals with private security and the difficulties they experience. As several new policy decisions have been made about the proper way to keep oversight on PSCs subcontracted by NGOs receiving USAID funding, these audits represent a closer interest in what specifically the results of these developments are. A number of reports and audits show that the organization is taking these new policies seriously and rapidly is increasing control of the sector; new rules on the reporting of infractions show a clear intent on trying to assert more control on their use, as well as a deeper understanding of the phenomenon. There are still a lot of gaps in their oversight though, as we will see.

4.2.1 Iraq

One of these reports that give an intriguing new look into the practicalities of the security situation is an audit done on the oversight of private security contractors in Iraq. The necessity for the audit is explained as contractors, now subject to Iraqi laws under the terms of the latest Security Agreement with the Government of Iraq, feel that stronger oversight is needed to guarantee that PSCs clearly adhere to control mechanisms by reporting serious incidents according to procedure and provide the U.S. Government with timely notification of

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213 Audit of USAID/Iraq’s oversight of private security contractors in Iraq, audit report NO. E-267-09-002-P March 4, 2009, Audit of USAID/Afghanistan’s Oversight of Private Security Contractors in Afghanistan (Audit Report No. 5-306-10-009-P)

214 Audit of usaid/Iraq’s oversight of private security contractors in Iraq, audit report NO. E-267-09-002-P March 4, 2009
these incidents.\textsuperscript{215} The goal of the audit was to determine if USAID/Iraq managed its contracts and grant agreements with implementing partners such that the implementing partners provided adequate oversight of private security contractors.\textsuperscript{216}

As I explained earlier, one of the attempts to control the private security industry were the policy directives issued by Embassy Baghdad that apply to all nonmilitary PSCs operating in Iraq under chief of mission authority. By these directives PSCs and USAID contractors are obliged to certain standards in reporting serious incidents and the timing of the notification of these. The audit found that they were not providing sufficient oversight of this area to ensure that their PSCs were reporting incidents in accordance with existing policy guidance.

The weakness here was that NGOs relied on the PSCs for reporting incidents and took little interest in oversight. As a result they were unable to see if mistakes were made in the reporting such as the ones in the audit. The audit noted that although most serious incidents such as death and serious injury are reported, this often was not done in a timely manner and to the right people.\textsuperscript{217} The office of the inspector general recommended ‘that USAID/Iraq require its implementing partners to establish procedures to monitor the reporting of serious incidents to ensure that such incidents are properly reported.’ And that it required ‘its implementing partners to notify the mission of all serious incidents by including the mission in the reporting of these incidents’.\textsuperscript{218}

4.2.2 Afghanistan

The second report I will discuss is related to PSC oversight in Afghanistan\textsuperscript{219} This is an audit is done to answer the questions of what types of serious security incidents have been reported by private security firms contracted with USAID/Afghanistan’s implementing partners during the period from October 1, 2006, through June 30, 2009 and if USAID/Afghanistan ensured that their partners subcontracted with responsible and reliable PSCs, and finally how much has been spent by USAID/Afghanistan’s partners for PSCs and how effective oversight of these security costs have been. This report paints a less attractive picture than can be found in the Iraq report: the audit found that USAID/Afghanistan was not receiving all reports of casualties and serious incidents because it lacks standard provisions in its contract that would

\textsuperscript{215} Ibid. p. 2
\textsuperscript{216} Ibid. p. 2
\textsuperscript{217} Ibid. p. 4
\textsuperscript{218} Ibid p. 9
\textsuperscript{219} Audit of USAID/Afghanistan’s Oversight of Private Security Contractors in Afghanistan (Audit Report No. 5-306-10-009-P)
require such reports. There are no procedures in place for handling these incidents and they had no way to be sure of their reliability.

The Far clause I previously mentioned should have required contractors to follow the required standards of reporting, but in reality this didn’t happen. For example, the audit found that two PSCs were not licensed with the Afghan Government, and USAID/Afghanistan did not provide subcontracting consent for seventeen private security firms or include in its contracts a clause to require various security measures, and that USAID/Afghanistan has no standard assistance (grant) award provision related to security, so about a third of USAID/Afghanistan’s awards with subcontracted security have no standard security requirements. The report notes that the clear lack of implementation of statutory and regulatory provisions for PSC conduct would have been hard anyway, because this wasn’t been implemented according to mission-wide instructions. USAID in Afghanistan also faced difficulties in keeping oversight in the costs for contracting because of a similar lack of standard procedures.

Recommendations in this report include that the Chief of Mission in the absence of mission-wide instructions the USAID/Afghanistan Director of Acquisition and Assistance should include a clause or provision in all new contracts to require the implementing partner to report information on casualties as well as serious incidents, and that USAID/Afghanistan devises and implements a formal process for its employees to forward reports of serious incidents and casualties to a designated office that will collect the reports. All these recommendations should already have been implemented under the NDAA FY 2008 but at the time of the report, 2009, this had not yet happened. Similarly, the report also states It should also remind its partners that PSCs should be licensed by the host government and that it needs to give consent to the companies when they are subcontracted. The FAR clause should be included and upheld in future contracts, as prescribed by the NDAA FY 2008.

4.2.3 Implications
Although basic regulation on procurement control and incident reporting is a prerequisite for any successful mission for USAID, we can see that setting up successful regulatory oversight needs the cooperation of all parties involved. This includes the host-government, Chief of Mission and USAID officers; but also the PSCs themselves. Increased oversight, and its implications, should increase the incentive for PSCs to report and operate according to set standards.

4.3. Self-Regulation

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It speaks for itself that in the creation of any new regulations the companies themselves should be allowed to participate (like they did in Baghdad), or should at the very least be consulted. Like I explained in the previous chapter the occurrence of high-end firms distinguishing themselves from the low end would mean that some companies are taking the concerns and reservations on their use quite seriously.

The industry itself is preparing for a shift in the market when the application of PSCs in Afghanistan and Iraq will diminish. A period of mergers and consolidation is to be expected (for example, a company like ArmourGroup was acquired by G4S plc. in 2008, while ArmourGroup itself also has taken over other security companies, like DSL). Like I explained in the previous chapter we could predict the emergence of high-end firms as opposed to low-end firms. These companies would greatly benefit from regulation as the industry as a whole could be damaged by any incident they are involved in it.

In absence of the creation of a complete and comprehensive regulation, which would have to occur on several levels, PSCs have undertaken an attempt at self-regulation: Some of these high end companies have participated in creating standards for professional behavior, and a structure for monitoring by objective groups. There is an organization for self-regulation of international PSCs that provide support for peace operations – the International Peace Operations Association (IPOA). This organization functions as the most important lobbying group for the private security industry in the USA, and has the mission of engage in a dialogue with policy makers about ‘growing and positive contribution of these firms to the enhancement of international peace, development, and human security.’ It claims it has developed a code of conduct that maintains the respect for the Voluntary Principles on Security and Human Rights and different international treaties on human rights; their journal highlights their close relations with NGOs and other humanitarian organizations. In Iraq a similar organization has been founded under the name of the Private Security Company Association of Iraq: PSCAI. Operating as a non-profit organization they claim to discuss and address matters of mutual interest and concern to the industry conducting operations in Iraq. PSCAI also claims they work closely with the Iraqi Government and foster a relationship of trust and understanding.

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220 http://www.g4s.com/en/Media%20Centre/News/2008/05/07/G4S%20Completes%20Acquisition%20of%20ArmorGroup%20International%20plc/ [Accessed 20 Jan. 11]
221 Avant p222
222 Renouf B p.7
223 Renouf B p.7
The development of a code of conduct by the private security industry itself is a new phenomenon and could be of great interest to those that discuss the issues with legislation and regulation. In the article *Code of Conduct: Tool for Self-Regulation for Private Military and Security Companies* by Nils Rosemann, this code is proposed to have at least the following qualifications: it should be in compliance with international law and it should transcend them to be truly meaningful, it should close the gaps in existing legislature and it should register the preferences of all those involved in their work and combine them. PSCs should be encouraged to comply to a code of conduct as not only would it demonstrate their desire to respect humanitarian law, any self-regulation would be template for their general entrepreneurial standards in the industry as well as for any future government regulation. In other words, broad PSC cooperation would benefit companies by influencing the general development of the industry. Instead of just being motivated by short-term money making goals, the companies better consider their long-term survival in the market.

As with any industry, self-regulation will have its limits. Any real quality will have to come from a healthy and clear international legal framework and control. To make the best use of the principles of the market the private security industry should have the incentive to uphold the standards of international law and human rights. Without humanitarians making clear demands for operational standards PSCs can not be expected to develop a complete and comprehensive approach to the way the conduct themselves in the humanitarian field. Still, the companies that do develop or underwrite a code of conduct should be encouraged in this.

Even though the high-end firms will distinguish themselves from the other companies, they are still heavily outnumbered by the lower-end of the industry: In the examination by Roseman of the mission statements and websites of several Private security companies, only 24.3% explicitly mention their compliance to ethical and normative values, 1.9% advocate recognition of human rights, and 6.5% agree that the industry should be regulated. Only 10.3% are willing to formulate a code of conduct in term of internally binding principles. Rosemann interprets this as the industry being skeptical of any limitation of their scope of action, but also a willingness to accept human rights as a baseline for their activities, especially after the increasingly critical observations of PSC activities.

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226 Ibid. p. 7
227 Ibid. p. 21/22
228 Ibid. 22

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The IPOA upholds its Code of Conduct via a Standards Committee and reserves the right to terminate membership should the Code or the decisions of the Standards Committee be violated. Thus far, no cases where a violation occurred have been published, although there was a case where at the start of a routine check of Blackwater, the company unilaterally terminated the collaboration. 229 The exclusion from the IPOA and its CoC ought to be of market relevance, since membership in the Code of Conduct should be a prerequisite for the awarding of public and private contracts as well as being a certification system guaranteed by the State. Moreover, finance market mechanisms – such as investment rankings referencing companies’ social, environmental or sustainability performance Practically speaking, such cooperative organizations should be respected by USAID acknowledging their mission and value by signaling a strong preference for their members in the process of subcontracting by the recipients of their donors. PSCs should not only learn how to translate the consequences a code of conduct has for their clients considerations when they contract their services, but also should look at what it means for their own operations, like procedures in management and communication. It is important for companies to demonstrate their compliance with the standards, as too great a discrepancy between their normative claims and what they actually do to promote them will give rise to criticism to the achievement of their corporate obligations, as Rosemann explains.230

In chapter two I talked about the many objections against the use of Private security. One of these many objections was the lack of regulation in this field which that could warrant a lot of negative consequences for humanitarians that would be at the mercy of a sellers market. Logically, the demands of USAID put on its implementing partners for subcontracting could help structure the market in a way more focused on international and humanitarian law. Although critics may say that successful regulation was a very slow process, and argue that for example in USAID/Afghanistan it still is far from fully implemented, we have to be aware that private security subcontractors do have a clear goal themselves for abiding to this regulation. PSCs do have willingness for further regulation, as it could be used as a form of guidance in their own operational procedures, as long as the demands put on them are clear and consistent. In a privatized sector the best way to guarantee compliance to the law is to give a market incentive for those companies who play according to the rules. Regulation has always been reactive to the reality in the field for security contractors, not vice versa, and although this continually demands a form oversight, it does not mean that companies who are willing to abide by humanitarian ideals are to be disqualified as well.

229 Ibid p35
230 Ibid. p. 6
CONCLUSION

This thesis set out to explain the way that USAID could, and should, play a role in the use of private security companies by their USAID NGO contractors. This thesis shows that old concepts of neutrality and acceptance have become partly obsolete, and that the changing role of humanitarians in the international community has forced them to reconceptualize security. Even though private security remains a controversial issue within the humanitarian community, the reality is that it is both needed and utilized in an increasing number of circumstances. As the subcontracting of PSCs increases, so should the regulation, monitoring and control of USAID over them, as well as their responsibility.

Security is an issue that many in the humanitarian community do not take as serious as they should. The rise of PSCs in the humanitarian field has been caused by both the increased use of NGOs in the military strategies of the United States military, as well as the increase in number of organizations and the nature of the situations they operate in. In this new reality USAID should consider not if Private Security companies can provide a security solution to safety issues for humanitarians, but when.

In chapter one I demonstrated that the humanitarian world has changed by the increased considerations of foreign policy by donor-organizations. The end of the cold war has changed the way the international community responds to crises and changed the efficiency of traditional acceptance based approach to security. The US-led reconstruction efforts in Afghanistan and Iraq, and the United States-led relief effort in Somalia also caused USAID contractors working to achieve their objectives to rethink their security dependencies in such situations. The rising casualty rates show us that especially the aid workers in Afghanistan and Iraq that work for USAID are at greatest risk of falling victim to violence.

Recent developments have shown that PSCs are utilized by a growing number of organizations. The arguments against these organizations essentially boil down to four main points. First locally acquired security for a NGO could further destabilize a region by introducing a new armed faction in the area, undermining the control that the local state or population would have. Second, the actions of a subcontracted (international) PSC could damage the reputation of a USAID contractor, both by having less than satisfactory operating standards, as well as that hired company’s involvement in other parts of the world. Third, armed guards could be mistaken for foreign military troops, something an NGO should explicitly avoid if it wants to uphold its neutrality. Fourth, many NGOs are left to the mercy
of a sellers market and fail to take an active interest in the quality of functions and the style of operations PSCs provide.

While chapter two sums up some compelling arguments against the increased cooperation of NGO’s with PSCs, their cooperation is already a reality. Its success can be explained by the following arguments for PSCs. First, a greater independence in operations can be achieved; the NGO can move around more freely on the field and is not dependant on military forces for protection. Second, they either maintain neutrality by using the international PSCs available, or can support local groups with funding, which could stimulate a local economy. This depends on an assessment of the situation. Third, the use of market principles can save costs while they acquire services they are unable to provide for themselves. However the most important reason to use Private security is that when NGOs are faced with either the option of retreating or staying at risk of violence, private security would allow them the option to stay. If NGOS would rather leave than reassessing their security strategy they would lose their right to be, as well as being at risk to lose their funding. The nature of Humanitarianism is that it is needed most in dangerous and unstable areas. Deterrence and a basic understanding of protection are an important part of security and cannot be neglected.

We can conclude that PSCs are necessary for the operations of USAID contractors in dangerous areas. The upsides should outweigh the downsides in the assessments I studied, but only after careful considerations. Many times the lack of regulation and control fails to provide the guarantee for the effective spending of donor funds by contractors. USAID policies are only formulated in response to incidents, practices in the field and developments in regulation. Private security seems to be a subject that has long been ignored. USAID’s handling of the development of a private security policy echoes somewhat the ICRCs’s attitudes towards it, where information about such operations was not acknowledged and put into policy. Here the organization silently condones their use as a necessity, but does not openly support the responsible use of this by allowing private security to develop norms and standards for operations.

USAID has only in the last few years started to audit and survey if their contractors are adhering to regulation. New control mechanisms are finally coming into place for PSC contracting by NGOs, and overall this show us a growing industry that is very willing to adhere to international norms and standards.

The scepticism of many authors in the humanitarian and security field is unnecessary if the control of industry remains intact. Such control mechanisms are beneficial for PSCs too, as
they can structure and operate accordingly without any penalty. A greater adherence to international norms and human right might even become a major consideration that companies will choose to develop if a market would reward them for this. USAID has to take responsibility by demanding that in procurement several considerations should be placed the contract. Also, self-regulation of companies would ultimately distinguish the high from the lower end firms and would be more specified to the needs of the humanitarians. USAID contractors should encourage these developments by acknowledging these affiliations when hiring them.

The ideal scenario would be the emergence of a specific part of the PSC-industry that is capable to provide services that are tailor-made to the wishes of USAID and its contractors. We can imagine an ideal form of private security that functions as a conscious investment in the security of a weak state. International human rights values upheld by the NGOs operating in these areas could be impressed upon the local government or otherwise controlling institutions by providing training in basic human rights and other instruments for civil society. When a PSC operates in a weak state environment the training of a security force in cooperation with the population could be seen as a form of security sector reform, thus making a lasting, sustainable change in the security. A consideration of the effects outside presences would mean that instead of infringing on the state control of violence a PSC would actually help restore it.

In this thesis I asked the question of whether private security could form the solution for NGO security issues. I would conclude that they very much could, but only under the right circumstances. As long as USAID takes the security of NGOs seriously they would have the power to help shape the market by demanding certain guarantees for the use of PSCs. With the American military involvement in Iraq and Afghanistan eventually winding down, the numerous security companies involved in support functions should market their expertise. Humanitarians could potentially benefit from the market-based services that will become better and more readily available in the future. USAID has the responsibility that this development will be transparent and well regulated.

Still NGOs should always carefully consider the consequences of their arrival in a dangerous area, and with private security it’s much the same. We can conclude however that an open attitude to possibilities would be the best for all involved as this would allow the knowledge and expertise on this area between NGOs to be shared. In an open environment the market principles behind the privatization of security could do their work in allowing the NGOs to operate. A regulation of the private security market operating to support humanitarians would

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mean the creation of specified expertise. To trust the market, USAID needs to develop better ways to control it. After that, these control-mechanisms could allow a leap in the international humanitarian field where for-profit and non-profit meet in a environment that stresses planning, involvement and flexible capabilities.
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