The Existence of Mercenaries in Terms of Their Implications for The Fragility of International Peace-Building

Erwin

Tanjungpura University, Indonesia

This study aims to determine the development / history of the use of mercenaries from time to time, to explain the existence of mercenaries in relation to Private Military Companies (PMC), to determine the implications of the existence of mercenaries on the fragility of international peace-building. As for the results of this study 1). that the mercenary has existed for a long time, in the early Roman empire known the terms Balearic Slingers and Agean Bowmen. In medieval Germany there were known as Landsknechts. In America at the time of the revolution it was called Hessian and in Italy it was called Condottieri. The presence of mercenaries in the past generally originated from the desire of Kings in western countries to form a formidable and large army. However, this requires a large cost. Hence the Kings of Europe at that time, around the 15th-16th centuries, such as the Kings of France, Italy, England, the Netherlands and Switzerland, 2). that mercenaries are not identified with Private Military Company. PMCs do not meet the mercenaries criteria as provided for in Article 47 of the 1977 Protocol. The PMC is as civilian, the PMC is not assigned to fight in armed conflict, is not integrated in the armed forces of the state and does not hold a continuous combat function and thus is not eligible to participate directly in hostilities on behalf of the parties to the conflict, as required to categorize a person as a combatant, 3). That the distribution of mercenaries in various armed conflicts can imply that the existence of mercenaries can threaten world peace --- the fragility of peace-building. Regardless of the debate over legal status, entitled/not entitled, active or passive position in the field and so on.

1. Introduction

Armed conflict always occurs in human life, wherever and whenever it is. The difference is only related to escalation , both small escalation, medium escalation and large escalation. Even the history of human life has more armed conflict than stable / peaceful conditions. Law began and developed due to situations of armed conflict, especially international law.

The term armed conflict used to be called war, hence known as the Law of War. However, along with the development of scientific treasures, especially international law, the terms armed conflict and humanitarian law are known. The principle is the same regarding the use of violence using bulleted firearms. Next will be used the term armed conflict.

Armed conflicts that occur in various regions of the world are caused by various things behind them such as territorial problems, politics, economic resources, influence (hegemony), power struggles, territorial expansion and interference of other parties in an armed conflict and many other factors. In essence, there are always things behind it so that armed conflict occurs.

In order to achieve this goal in the event of armed conflict, all efforts and methods will be used by the parties to achieve the objectives of the armed conflict itself, in this case the parties involved or warring tend to use various means. All efforts and methods that will be used both in terms of equipment, methods, tactics and even including personnel.

In terms of personnel the emergence of mercenaries (mercenary). The emergence of mercenaries is generally due to armed conflicts especially in third world countries which are usually always related to political issues, power, natural resources and economic interests, as well as religious and ethnic issues, causing rulers or parties involved in it to ask other countries for help. It is no exaggeration as Jean Pictet said that war or armed conflict always exists in human life.

Jean Pictet said as quoted by Mochtar Kusumaatmadja that it is a sad fact that for 3400 years of written history, mankind has known only 250 years of peace. War is only one form of embodiment of the instinct for self-defense, which prevails both in the association between people, and in the association between nations. War is one that is as old as the history of mankind. From this, at any time there will still be armed conflict. Times can change such as the end of World War I, World War II and the Cold War.

The end of the cold war has led to dramatic and complex changes to international relations and the evolution of international law. The disintegration of the Soviet Union, the Balkan

conflicts, as well as internal conflicts arose in many regions. The intervention of major powers, especially the United States, in various internal conflicts further aggravates the conflict itself. In this case, mercenaries became an important choice and goal to win armed conflicts.

The increasing use of mercenaries in an armed conflict is something that needs to be observed, especially legally. In this case, namely International Humanitarian Law related to its development, status, rights and obligations and legal consequences internationally especially its implications on International Peace-Building.

2. Research Method

Research is a major means in the development of science and technology. This is because, therefore, research aims to reveal the truth systematically, methodologically and consistently. Through the research process, analysis and construction of data that has been collected and processed is carried out. In this study is a type of normative legal research.

3. Result and Discussion

3.1. History of Mercenary

Mercenary is a profession that is basically done in the interest of profit. This profession is as old as warfare, which is why it is also often referred to as the second oldest profession in the world. The term mercenary itself comes from the Latin merces ("wages" or "pay"), today the mercenary profession is often identified with heinous deeds, treason and murder. Though the mercenary profession was not always like that, in fact mercenaries were once considered honest work even though they were bloody, and in history it has been a tradition that rulers employ mercenaries to fight for example, King Shulgi who recruited mercenaries in your army (2094–2047 BC), then there were Greek mercenaries Xenophon (401–399 BC) and Carthaginian mercenaries in the Punic War against Rome (264–146 BC), then Hannibal's sixty thousand soldiers who herded elephants across the Alps to attack Rome from the north were also filled with mercenaries. When Alexander invaded Asia in 334 BC, his army was also filled with five thousand foreign mercenaries and the Persian army facing him consisted of ten thousand Greeks.

Please note, Roman civilization also relied on mercenaries during thousands of years of rule. Similarly, the army of William the Conqueror in the eleventh century was also filled with mercenaries, because William could not afford a large army and there were not enough nobles and knights to recruit to win the Norman conquest of England. In Egypt and Syria, the Mamluk

Empire (1250-1517) had slave converts who were used as mercenaries. From the end of the tenth century to the beginning of the fifteenth century, Byzantine Emperors hired Nordic mercenaries, the Varangian Guards, who were known for their strong loyalty. Meanwhile in Europe, condottieri, Swiss companies, landsknechts, Bretons, Gascons, Picards, and other mercenaries dominated warfare from the thirteenth to sixteenth centuries. From these examples there are actually many other examples of mercenary involvement in history, this is because in the period of about 3000 years, the role of mercenaries is very prominent and often even gets a major role in warfare.

During the 30 Years' War (1618-1648), most of Sweden's military were mercenaries. At the battle of Breitenfeld, only 20 percent of the Swedish army was made up of Swedes, and at the battle of Lützen, the figure was 18 percent.

Mercenaries or mercenaries, often also called the general public by the term Soldier of Fortune. Initially, the need for mercenaries arose because of the difficulty of forming or having a large and formidable army, and at a high cost. Therefore long ago, the Kings of Europe decided to have a small but formidable army. This was done by King Charles VII of France (late 15th century), in Italy and Holland (late 16th century), as well as in England. In Switzerland, Swiss mercenaries served in France at the request of King Louis XI, and they remained loyal to the royal family until the outbreak of the French Revolution. Their existence is also inseparable from every conflict or war even since civilization thousands of years ago. Recorded in the history of Carthago for example, placing mercenaries in the official ranks of its military in the face of the threat of Roman hegemony, not least the Pharaohs, Kings, Shoguns took advantage of their presence in war.

The definition of mercenary itself is a soldier who fights, or engages in warfare primarily for moner, usually with little regard for ideological, national or political consideration.

The emergence of mercenaries is generally due to conflicts, especially in third world countries, usually always related to political issues, power, natural resources and economic interests, as well as religious and ethnic issues, causing the ruler or parties involved in it to ask for help from other countries, especially developed countries. Today the demand for mercenaries is not only for the benefit of countries in conflict, but also because of the secret interests of developed countries or superpowers and for the interests of intelligence operations so it is known as the Dirty War.

3.2. Existence of Mercenaries in Relation to Private Military Companies (PMCs)

In the history of pre-modern warfare, the existence of mercenaries was an inevitable necessity for political power at that time (feudalism) where Feudal lords desperately needed trained and formidable knights to complement the weakness of the royal army that was difficult to repress the peasants and artisans (craftsmen).

In modern warfare, mercenaries still exist, but they are much more structured and organized in an institution called a Private Military Company (PMC). Private Military Company (PMC) itself is a new entity in the international world, this is because the Private Military Company (PMC) was first registered in 1967 when an institution called Watchguard was first formed by David Sterling who was one of the founders of the British Empire's Special Air Service Regiment in the era of World War 2. Private Military Company (hereinafter abbreviated as PMC) itself works based on a contract concluded with a constitutionally valid government so that PMC is different from ordinary mercenaries, this is because PMC cannot just work for anyone. According to Tim Spicer, a former director of Sandline International, the PMC offers military assistance in a form that is compliant to a legitimate government.

A PMC has a clear hierarchy, including executives and board of directors, corporate identity, and even has shareholders who have the right to demand business transparency. PMCs can also get support from lawyers and accountants, they have permanent offices, run promotions, and trade law provisions in the area where their offices are established. In carrying out their operations, as Tim Spicer puts it, PMCs operate in accordance with "the laws and customs of the host country, they also abide by the principles of the Geneva Conventions and International Law in armed conflict". However, the existence of PMC is intended to make money / seek profit but they continue to strive to ensure that each of their operations is in line with the rules and propriety.

Actually, besides the Private Military Company (PMC) there is still one other institution that is also a place for modern mercenaries, namely the Private Security Company (PSC). While PMCs tend to operate to serve a government, they tend to operate in the private sector. To the private sector, PSCs often offer a range of security services related to the physical protection of corporate property including extraction, production or manufacturing processes. PSC operations tend to be mineral mining and oil extraction locations, particularly in the Saharan or Sub-Saharan geographical regions. Some of the major PSC groups operating in many areas include Defense Systems Ltd, Sterling, Lifeguard Security, Group 4, Rapport, Grays Security, Securicor, Controlled Risks, Kroll, Coin, CRG, and Saladin.

Private military service providers are not new because the industry has evolved since the introduction of the concept of war. Mercenary or mercenary is a classic form of this business phenomenon. Corporate involvement in warfare is also not something new. The Verenigde Oost-Indische Compagnie (VOC) was one example of military and political privatization in which the VOC as a corporation not only traded but also carried out other political activities on behalf of the Dutch government such as opening and governing colonies. Corporations also played an important role in the First and Second World Wars, especially in terms of the supply of war equipment and weapons. Cases such as Flick, Krupp, and Farben's involvement in arms sales, the provision of poison gas to kill Jews and prisoners of war and the use of forced labor during the Nazi era are evidence that corporations were directly involved in warfare and that they too can be held accountable for committing war crimes.

After the cold war with new packaging, the private military service industry became a lucrative business and its practice has flourished in many armed conflicts. Armed conflicts in Iraq, Afghanistan, Kosovo, and Africa are examples of proven conflicts involving many private military contractors (PMCs). Meanwhile, intelligence activities have preceded private involvement and grew rapidly after the events of September 11, 2001. In general, the involvement of private parties in military activities varies from the provision of military equipment and logistics, the provision of training, consulting on war tactics, interrogation, intelligence, to the use of private military personnel in combat. Users of this business service are also diverse. Corporations such as mining use this business to secure their mining operations. The state is the second largest client that uses the services of the private military industry both for alternative law enforcement, war purposes and completing various special missions such as terrorist, drug eradication, or rebel resistance. Private military services are also often used by international organizations including the United Nations (UN) to escort UN operations including humanitarian operations in vulnerable areas and the International Committee of the Red Cross to secure their operational locations.

3.3. Implications of Mercenary's existence on the fragility of international peace-building

Peace-Building is an English term derived from two words, namely peace and building. Etymologically, it is defined as a condition where there is no more war or fight. In practical sense, peace in Old Roman means absentia belli, the absence of war, as referring to the adagium of martyr Luther King who stated that "true peace is not merely the absence of tension: it is the presence of justice". While building is the process or business of building

things (the process or interest of building something).

Peace-building is a term that has a variety of different meanings based on the background of the study, such as scholars, policy-makers, and field practioners. But the historical sequence of peace-building can be traced back to more than 35 years ago when Johan Galtung in 1975 noted this theme in his pioneering work entitled Three Approaches to Peace: Peace-Keeping, Peace-Making, and Peace-Building.

Menurut Boutros-Boutros Ghali, mantan Sekretaris Jenderal PBB definisi peace-building adalah "comprehensive efforts to identify and support structures which will tend to consolidate peace and advance a sense of confidence and well-being among people. Through agreements ending civil strife, these may include disarming the previously warring parties and the restoration of order, the custody and possible destruction of weapons, repatriating refugees, advisory and training support for security personel, monitoring elections, advancing efforts to protect human rights, reforming or strengthening governmental institutions and promoting formal and informal processes of political participation" .

This definition is reinforced by the peace-building approach presented by John Galtung and Andi Knight, John Galtung, a peace studies researcher from Norway stated that peace-building is a peace-building process aimed at the practical implementation of peaceful social change through political, social and economic reconstruction and development.

There is not a single country in the world that does not want peace for its country. International peace is a dream for all mankind in all nations, but considering so many wars that occur today shows that the ideal of international peace is actually a fragile thing even though it has been built for many years. This fragility is fueling increasing demands for effective conflict prevention and peacebuilding. As for this, the presence of mercenaries organized in PMC (Private Military Company) is very dilemmatic, why? Because not only in pre-modern warfare mercenaries were known as savages, but in some modern wars mercenaries were also involved in tragedies that accentuated the barbaric side so that it was against the will of modern society that sought to establish international peace.

In the modern era, the presence of the PMC is seen in several major armed conflicts such as in Iraq, Syria, Libya, Ukraine and Yemen is also seen in small-scale armed conflicts that are not very popular such as the role of mercenaries of the United Arab Emirates and Saudi Arabia who supported the government of Abdrabbuh Mansur Hadi to fight Al-Qaeda and the Houthi

militia financed by the Iranian government in addition to the overthrow of the ruler of Equatorial Guinea involved the army British-South African payers who are members of a PMC called Logo Logistics.

The presence of mercenaries in armed conflicts with negative objectives as mentioned above certainly threatens efforts to realize international peace, this does not mean there are no rules of international law that want to end the negative role of mercenaries, because since 1989 an international legal instrument regulating the existence of mercenaries has been formulated, namely the Convention against the Recruitment, Use, Financing and Training of Mercenaries (The International Convention Against the Recruitment, Use, Financing and Training of Mercenaries) which has been adopted since December 4, 1989. Through this convention, provisions are stipulated for the revocation of the operating license of mercenaries who want to overthrow or destroy the legitimate government.

Although mercenaries in the modern era are also involved in armed conflicts that threaten international peace, this does not mean that the existence of mercenaries cannot be aimed at building international peace, because the issue of how important it is to involve mercenaries in international peace has existed since the 90s when the UN failed to guarantee peace in Somalia and Rwanda while mercenaries managed to guarantee peace in Angola and Sierra Leone.

This fact makes some people feel that the role of mercenaries is very necessary in maintaining peace. This is because mercenaries have several benefits, including:

1. Mercenaries are better organized, trained and fully armed than UN peacekeepers who often face difficulties such as lack of equipment, incompatible communication systems, different operating experience and doctrine and different languages.

2. Mercenaries can help respond quickly to a crisis, rather than UN peacekeepers who despite repeated efforts to contain the conflict and defuse the crisis quickly and effectively, delays still occur where UN peacekeepers take between 3 months and even a year to deploy, in contrast to a PMC called EO which immediately started operations in Angola and Sierra Leone one month after being contracted.

3. Mercenaries organized in a PMC are much cheaper in terms of cost, PMCs called EO operating in Sierra Leone alone for example require monthly peace operations costs of US $ 1.19 million while UN operations per month costs US $ 19.4 million.

From this it is very clear that the role of mercenaries in the modern era besides being able to threaten world peace, on the other hand can also play a role in maintaining "world peace", but

still that mercenaries in principle can threaten peace building. This is in the context of the term mercenary, as people who fight militarily by force of firearms even have the potential to be abused. Or in other words, the existence of mercenaries can threaten world peace --- the fragility of peace-building. Regardless of the debate over legal status, entitled/not entitled, active or passive position when in the field and so on.

4. Conclusion

Based on the findings and discussion, this study concludes several things, namely: 1). that mercenaries have existed for a long time, at the beginning of the Roman empire known as Balearic Slingers and Agean Bowmen. In medieval Germany there were known as Landsknechts. In America at the time of the revolution it was called Hessian and in Italy it was called Condottieri. The presence of mercenaries in the past generally originated from the desire of Kings in western countries to form a formidable and large army. However, this requires a large cost. Hence the Kings of Europe at that time, around the 15th-16th centuries, such as the Kings of France, Italy, England, the Netherlands and Switzerland, 2). that mercenaries are not identified with Private Military Company. PMCs do not meet the mercenaries criteria as provided for in Article 47 of the 1977 Protocol. The PMC is as civilian, the PMC is not assigned to fight in armed conflict, is not integrated in the armed forces of the state and does not hold a continuous combat function and thus is not eligible to participate directly in hostilities on behalf of the parties to the conflict, as required to categorize a person as a combatant, 3). That the distribution of mercenaries in various armed conflicts can imply that the existence of mercenaries can threaten world peace --- the fragility of peace-building. Regardless of the debate over legal status, entitled/not entitled, active or passive position when in the field and so on.

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