

## Interview with Andrew Bearpark\*

*Andrew Bearpark is the Director General of the British Association of Private Security Companies (BAPSC), an independent trade association representing the leading companies in the specialist private security and risk management sector in the United Kingdom. The association aims to raise the standards of its members and the emergent industry as a whole and ensure compliance with the rules and principles of international humanitarian law and human rights. Prior to taking up his position, Mr. Bearpark served as Director of Operations and Infrastructure for the Coalition Provisional Authority in Iraq. From 1998 to 2003, he was Deputy Special Representative of the Secretary General in charge of the European Union Pillar of the United Nations Mission in Kosovo (UNMIK) and was previously Deputy High Representative based in Sarajevo and responsible for the Reconstruction and Return Task Force, a grouping of international organizations facilitating minority return in Bosnia and Herzegovina. Before taking up his positions in Bosnia and Kosovo, Mr. Bearpark held a series of senior positions in the UK, such as Head of the Information and Emergency Aid Departments of the Overseas Development Administration (ODA) and Private Secretary to Prime Minister Margaret Thatcher.*



### ***Do you see a tendency towards the increased use of private companies during armed conflict?***

Well, it's only really been since the Iraq and Afghanistan campaigns, where we have seen significant growth in the industry. Security has been so bad there that private security companies had a true role to play in order to help aid agencies and even the military to achieve tasks that could not have been done without any external support.

\* Andrew Bearpark was interviewed by Toni Pfanner (editor-in-chief of the *International Review of the Red Cross*) in London on 17 October 2006.

***In Somalia and other African countries, many security companies have been operating for decades in very precarious security situations.***

Yes, these companies have been around for ten, twenty, thirty years. But the real growth started at the end of the 1990s. By that time the international aid business, however you define it, was perceived as a neutral endeavor in which armed companies did not want to get involved. Throughout the Balkans wars the tradition was that aid workers were a specifically protected group of people. Some of them were injured and killed by landmines, but combatants rarely deliberately targeted them. At the end of the 1990s and the beginning of the 2000s, aid workers stopped being perceived as neutral and were rather seen as legitimate targets in their own right. That is why the need for protection arose. The ultimate illustration is Iraq, where aid agencies, even though purely helping the Iraqi people and without any other agenda whatsoever, became a specific target. During 2003/2004 you saw the tragic bombing of the UN, and a few weeks later you had the attack on the ICRC office and the kidnappings and murders of individual aid workers, with the tragic death of Margaret Hassan from CARE as one example. There was a total change in atmosphere – from being neutral do-gooders the aid workers had suddenly become perceived as part of the war environment, and that’s where the need for security arose.

***Despite this hostile environment, more and more humanitarian organizations are getting involved in conflict situations.***

What you observe is a change in the political dynamic. If you go all the way back to the Cold War and the 1980s, with the sole exception of the ICRC, no international humanitarian organization was present on the battlefield. They waited for the war to be over and only then moved in. Since the end of the Cold War, however, western governments have required aid agencies to be there even at time of conflict. Therefore, they do need protection from attacks.

***You were engaged with the Coalition in the reconstruction of Iraq.***

Indeed, it was the first time private security companies were used in such numbers on such a scale. You had the world’s largest-ever reconstruction program being financed with \$18.6 billion from the US taxpayers and protected by private security companies. Elsewhere in the world you may find an individual aid project being protected by a private security company, but there has never ever been anything on the scale of the Iraqi operation before.

***What are usually the main areas of operation of private security or military companies?***

Armed private actors provide an increased range of activities, from protecting buildings and installations to supporting humanitarian aid and state-building and performing purely military activities that used to be the prerogative of states alone. Besides the traditional security and risk management for other private businesses, there are three main areas of operation. The first includes protective security services, from close protection and asset protection by professionals, convoy security and evacuation planning to asset tracing and recovery, dealing with hostage crises

and pre-employment screening. Secondly, private security companies increasingly support post-conflict reconstruction efforts by giving advice and providing services for personal and site protection. They are thus trying to open business opportunities by moving into new fields such as state-building, supporting and even providing humanitarian and disaster relief, which includes logistics, communications and energy services. Finally, they carry out activities previously performed by national militaries. These range from military training to the provision of personal security for senior officials and site and convoy protection.

***The United States is at the forefront in outsourcing activities during armed conflict.***

The US military outsources vast activities to companies such as the engineering and construction company KBR (formerly Kellogg, Brown and Root), which provides housing for soldiers and constructs support facilities both in Iraq and in Afghanistan, to mention an example. That's the way in which western European militaries are now heading, but they haven't really gone so far yet. For example, the British army contracts out and privatizes activities like the static guarding of its bases, but it doesn't privatize much more than that as of now. There is, in fact, a fundamental difference in the scale and degree of use and development of private security firms. In the United States, whole parts of the war-fighting effort are contracted out to the private sector. The distinction between the ways the US and the European militaries operate is great today, but that distinction will decrease year by year. I think that in ten years the British model will come to look a lot more like the American model.

***Are there competitive advantages for security activities to be carried out by private security companies instead of armed forces of states?***

Private security companies have a number of competitive advantages. One of them is efficiency. Standing militaries have large built-in costs that cannot be avoided, whereas a private security company, because it recruits staff for a specific operation, doesn't have to pay for staff not in operation. This lowers the overall cost.

***Your association distinguishes between military activities and activities carried out by private military companies.***

In the UK, we refer to private security companies rather than private military companies. It better expresses the wide range of services companies are offering, but it also obviously has to do with cultural reservations with the term private military companies, which may imply that services at the front lines in conflicts are included.

***Traditionally, an army cook was a member of the armed forces and legally speaking a combatant. In times of war, he was a lawful target. Now the cooking is outsourced to the private sector. Doesn't this confuse the issue of direct participation in hostilities and threaten the protection of civilians?***

What we're seeing is indeed the increasing outsourcing of what you call combat support activities. It is cheaper and more cost-effective for the private sector to employ the cooks than it is for the army. They'll become a privatized part of the

armed forces of that country. In that sense it's no different from the outsourcing and privatization of state activities that have taken place more and more extensively in many European countries. In legal terms, that issue becomes more complicated. Who can then be defined as a combatant? Who is a non-combatant and who has what protection under the Geneva Conventions? This is a difficult area where even the best legal minds have not yet really achieved consensus, because the Geneva Conventions were written for traditional armed confrontations. They were written at the time of world wars, at the time of large standing armies. However, the principles they enshrined are as applicable today as they ever were. There's no problem whatsoever with the principles, but the detailed legal rules are becoming increasingly difficult to apply in this growing privatized world.

***Most of the people active in that field are former combatants. Where do your members normally recruit them? Are there specific recruitment techniques?***

Individual companies will behave in different ways, but there are a couple of straightforward principles. A British company will tend to recruit former British soldiers and combatants because they will know what training those people have had. It is a question of interoperability: they'll know that those people can work with their colleagues. Obviously, because of the long historical tradition, the UK companies will also recruit Ghurkhas. Even if a Ghurkha has been trained in the Indian army, the fighters still have strong cultural ties and similar traditions.

***Do your members enter into competition with the British army, as you may offer better salaries than the armed forces and benefit from their costly training as elite soldiers?***

The private security industry tends to require experienced people. Therefore, it is not in competition with the British army in any way for the basic level of recruits. Where the element of competition would come is if you've been in the British army for several years and you would have the choice of staying in the army for some additional years or of working for a private security company. With the tremendous increase of work in Iraq it was anticipated that there would be a major problem with the British army losing soldiers more quickly than it otherwise would. In fact, it has been a problem for only a few individual units. The turnover in the British military is such that there is a constant stream of people coming on to the job market. So if you look forward to a massive expansion of private security companies it could become a problem, but it is not so far.

***Your members recruit professional soldiers but other companies may not proceed in that way, deploying less trained and disciplined combatants.***

I don't think that is a problem for the British companies. It may be an issue in some other countries, and that's why they may require new legislation on that issue. Like I said, the British market has been able to operate successfully. It could be that there are other countries where there is an excess of undisciplined troops who may want to go into commercial work as offensive forces as well.

***Certain developing countries fear (and often use) private military actors. In the eyes of the public, their activities are often equated with those of mercenaries.***

There is an enormous degree of muddled thinking. People seem to be implying that it is in some way immoral for a private security company to make a profit. If you look at humanitarian aid, which is my background, the trekking companies that drive the food around the world, the airplanes that do the food drops in Somalia, in Sudan, wherever it may be, are all commercial entities. They're commercial airlines, they're commercial ships, they're commercial trucks, so they have to make a profit. I really don't see why suddenly people get so morally uptight about the fact that a private security company needs to make a profit. That's what businesses do. They then muddle that with a concept of "mercenary". But, in fact, that is not the case. Mercenary activity is something that has existed in the past and will continue to exist. The private security industry has to be distinguished from mercenaries. We all know what is meant by that. We think of Biafra and *coups d'états*. These are bad things, but there is no connection between mercenary activity and business activity.

***Military specialists also claim that private military companies will increasingly carry out covert operations.***

That's not an issue for the UK private industry at the moment. The UK industry is purely defensive. It is private security and it is perfectly transparent. However, that's not to say that there aren't other countries, including Western governments, who may decide that they would prefer to have some activities undertaken by private military companies rather than the armed forces. They may ask private military companies to do jobs that they don't want to do with their own militaries for reasons of secrecy or even deniability. That's not the case in the United Kingdom, but that's not to say it doesn't happen or couldn't happen.

***Every business is self-supporting and looks for new business opportunities. Is there a danger that private military companies may extend their activities both in nature and in duration, and that even the violence would be extended in order to keep the business going?***

That's the danger proper contract control must guard against. The private security company will only operate if it's being paid. Therefore, there must be a client, either a government client or a legitimately recognized client – an engineering company that is actually paying the bill. It is in the interest of that client to ensure that the private security company is not extending the contract just to make more money. It is the same with any form of contract anywhere. What you require is good contractual controls.

***Does this make war a "business"?***

Yes, you can certainly talk about business opportunities arising out of a lack of security and that's the reason why we, as the British Association of Private Security Companies, are so keen on international regulation. That's why we support the different initiatives taken by the Swiss government, the ICRC and the United Nations. Insecurity is a global business, and is being driven by different agendas in

different countries. We may feel comfortable in the United Kingdom that through our methods of self-regulation we are able to ensure that people only behave in a certain fashion. What we do in the United Kingdom doesn't necessarily have any effect on what some other countries are doing. Ultimately and ideally, it can only be international regulation that solves the issue.

***In Iraq private contractors may have interrogated detainees, contrary to humanitarian law or human rights law. Which activities would you exclude, for moral or legal reasons, from the operations of private security companies?***

Activities that we would never accept in any way are those which necessarily involve breaches of international humanitarian law, international human rights law or international law generally. We as association members have no right to interfere in the internal politics of a country. For instance, to train a group of Special Forces that would lead to a military coup in the country would be unacceptable. All activity must be legal in the country it takes place, regardless of that country's ability to actually enforce the law. In a sense the companies have to impose upon themselves a higher standard than the country they are working in can afford to do.

***States have the monopoly of violence in that they are the only ones authorized to use force. Are private security companies threatening this principle?***

States will always want to exercise that control. They don't want to give up their monopoly on violence. If states privatize the use of force, they ultimately hold the contracts and should have the adequate control mechanisms. Whether a state exercises that use of force through its own forces or through a private company is irrelevant. It is still the state exercising that force; it is still the state deciding under what circumstances force can be used.

The difficulty would come if private companies were able to do that without the cover of state authorization and guidance. Then difficulties would most definitely arise. If you look at western countries, they have strong government functions, checks and balances through democracy and through the court system to be able to cope with such a threat. A war-torn society, even though there may be a legitimate government in place wanting to exercise various controls, often doesn't have the capacity to exercise them. A classic example would be Iraq, where in theory the Coalition forces handed control back to the Iraqi people on 30 June 2004, but the Iraqi state is still incapable of actually exercising that degree of control. Private security companies, therefore, can operate in a way that is not necessarily preferred by the Iraqi government. You have no problems with a government that is strong enough to perform its functions. You do have a problem with war-torn and post-conflict societies where the government may not be strong enough to exercise its own legitimate functions, much as it would wish to.

***Might private military companies develop their own rules and become nearly as powerful as traditional military actors?***

There are some American private military companies that may be prepared to move into that area. But looking at British private security companies, the answer

is that they want to stay in the defensive area. It implies that in certain circumstances they will not want to operate at all. They cannot operate successfully unless they do so in partnership with the British military. The British military performs the offensive service, and the private security company provides the defensive service. But I don't see any tendency on the part of British companies towards a move into that offensive area.

***Nevertheless, these actors may be trapped into fighting. In Iraq, for example, private security companies had, ironically, to protect the military.***

The difference between defensive and offensive operations is absolutely clear when you start off. Defensive is not the same as offensive. When you come under attack, however, you have to defend yourself, and the way of defending yourself is indeed sometimes by becoming offensive. The practical reality on the ground determines the activity that takes place. British private security companies, all of them, will only ever wish to be involved in defensive operations. If you give them the choice they will prefer to get away from fighting, get their clients away from difficulties, not to be where combat operations are taking place. But when they come under attack, they have no choice but to defend themselves, and the Iraqi example where a British private security company was protecting the Ukrainian army against attacks is indeed an illustration of this.

***Are private companies stretching their military capacity to such an extent that it reaches far beyond what was initially foreseen? Are they acquiring a larger arsenal of weaponry for self-protection only?***

Any military would argue that offence is often the best form of defense. The private security companies don't have that luxury; they are defensive forces, so they are not fighting a war and they don't have the ability to do so. But depending on the degree of the threat, you may need bigger and better weapons for defensive purposes. If you look back to what happened in Iraq, the private security companies started off by operating with their weapons of choice, mainly hand pistols and AK-47s. The degree of threat was such, or is such, however, that many of them had to start using 50-calibre weapons. They've gone up a step, a change in terms of the size of the weapons they need to use, but those are still being used in a purely defensive role rather than an offensive role.

***Some countries have enacted legislation on private security or military companies. Others have not. The UK does not at present have any specific legislation, but a Green Paper began to be written, was stopped and now is again on the books. Are states in general enacting specific regulations to deal with private security companies?***

There is a tendency towards that, and the most recent example is the South African bill approved a couple of months ago. And you're right, the British government is still considering whether or not it will legislate itself. The problem is that the countries with the ability to legislate like the British government would be legislating events that happen overseas. This is legally a very difficult issue. Use of



force in the UK is very controlled. Even our police don't carry guns most of the time. Therefore, we have a very heavy regulatory regime covering the use of private security in the UK. However, private security companies operate in Third World countries and the question is: How easy is it for an individual country to regulate companies that primarily operate in a foreign jurisdiction? The international nature of our activities allows individual companies to relocate their business at any time to avoid constraints to their operations and to work with the least arduous regime.

***Your association is promoting a rather multi-faceted approach, including self-regulating mechanisms.***

We believe that there is no silver bullet. There is no one activity that would provide the requisite degree of control. We are in favor of a whole series of regulations and legislations at the voluntary level, at the national and international levels. We believe it's only through a combination of all of those layers that you actually get the result you want, which is to balance the provision of security services with the legitimate concerns of those affected by the delivery of those services. Self-regulation is important since it can, through a voluntary code, change behavior that cannot be changed efficiently by compulsory regulation.

***Does this mean that compulsory regulation is inadequate or difficult to achieve?***

Exactly. It is very difficult to have British legislation covering a firm based in another country and operating in a third country simply on the basis that the directors of the firm happen to be born or its direction happens to be exercised in the UK. Here self-regulation can be more efficient because the companies voluntarily submit to self-regulation. The other issue is what to do cowboys? That's what I call them. There is a limit to what we can do. We can essentially identify and stigmatize them and make it clear to the world that that's what they are. They are outlaws.

***Is that the goal of your association?***

Precisely, that is what we are trying to do. There will always be people who are prepared to break the law. No standard will eradicate this behavior entirely because by definition they don't care about regulation, they are criminals who are operating outside the law. But an aggressive self-regulation can drive up standards in the industry.

***Do you propose preventive or repressive action?***

We propagate both approaches. We already have taken the first step by introducing transparency to the industry. We created a point of contact where people can come along and say they want to expose certain abuses. Part one is transparency and providing the observers of the industry with a point at which they can complain. The second step is the idea of forming an evaluation facility ourselves, where we monitor the industry, including with on-the-spot checks.



***Will that be accepted by the companies?***

The companies are absolutely delighted to accept this.

***Is this the case because they wish to promote their image?***

By definition the bad companies don't want to join us, and the good companies that want to adhere to our association want to improve their image. The issue at the moment is simply one of funding. If the companies funded control mechanisms themselves, which they are prepared to do, nobody would trust them. People would say: "How can that be an independent verification mechanism when it's being paid for by the companies themselves. Surely they're biased." The problem is finding ways of funding an activity, whether through governments or through international mechanisms, so as not to be dependent on the companies themselves.