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(*) Corresponding author

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LEGAL AMBIGUITIES AND STATE TIES: ASSESSING THE WAGNER GROUP UNDER INTERNATIONAL HUMANITARIAN LAW

Vesna Poposka^{1*}

ORCID: 0000-0002-4787-3197, vesna.poposka@ugd.edu.mk

Aleksandar Grizhev¹

ORCID: 0009-0009-8074-0036, aleksandar.grizev@ugd.edu.mk

Goran Ilik²

ORCID: 0000-0003-3501-1386, goran.ilik@uklo.edu.mk

¹Military Academy “General Mihailo Apostolski” Skopje, Goce Delcev University, Stip, North Macedonia

²Faculty of Law, University “St. Kliment Ohridski” - Bitola, North Macedonia

Abstract

The Wagner Group, a Russian state-linked private military company (PMC), exemplifies the growing use of quasi-state armed actors in contemporary conflicts. Operating across multiple theatres, including Ukraine, Syria, and several African states, Wagner blurs the boundaries between state and non-state actors, raising profound legal and political questions. This article examines the group’s status and activities through the lens of international humanitarian law (IHL), focusing on combatant classification, state responsibility, and accountability for violations of the laws of armed conflict. Drawing on treaty provisions, customary norms, and relevant jurisprudence, it argues that the Wagner Group’s close operational and financial ties to the Russian Federation create a hybrid legal profile that challenges traditional frameworks of attribution and liability. The analysis highlights the urgent need to clarify the application of IHL to private military entities operating under state direction and offers recommendations to strengthen oversight and enforcement mechanisms.

Keywords: Wagner Group; International Humanitarian Law; State Responsibility; Laws of Armed Conflict; State Attribution; Hybrid Actors; Legal Ambiguity

INTRODUCTION

The rise of new global powers in the last two decades has slowly but surely led to the polarization of global society, escalating with the Russian invasion of Ukraine and the Middle East. Increased multipolarity led to a more complex and dynamic international landscape, with both opportunities for cooperation and risks of conflict.

As new forms of geopolitical rivalry emerge across the globe, different types of state-affiliated private military and security companies (PMSCs) are deployed into an increasing number of civil conflicts. The Wagner Group stands out among private military companies (PMCs) for its close ties with the Russian government and extensive involvement in geopolitical conflicts, which have garnered widespread public attention for its alleged brutal tactics (Druet, 2023). While many PMCs focus primarily on security and training, Wagner is heavily involved in direct combat and geopolitical maneuvers, often acting as an extension of Russian foreign policy (Urlike, 2024). In the world of covert warfare, the Wagner Group is more than just another PMC; it symbolizes shady covert tactics and powerful weaponry (Winter, 2023).

Since the Russian invasion of Ukraine, the Wagner Group has pivoted from a more secretive organization with limited public engagement to a publicly recognized and front-facing part of Russian foreign influence. Despite the sizable media profile of its founder, Yevgeny Prigozhin, early Wagner operations are shrouded in mystery (Gurcov, 2023). Over the years, the Wagner Group has engaged in disinformation campaigns and election interference, provided military and security services to several governments, and signed contracts to exploit natural resources, often through companies linked to Prigozhin (Stanyard et al., 2023). Tense relations between the Wagner Group and Russia's Federation Ministry of Defense (MoD) precede the all-out war in Ukraine. They may date back to the group's involvement in the Syrian war in 2018 (Meduza, 2022).

LITERATURE REVIEW

The Wagner Group, a Russian-linked private military company (PMC), has emerged as a paradigmatic case in the study of state-affiliated non-state actors operating in armed conflicts. Its activities in Ukraine, Africa, and the Middle East have prompted renewed scrutiny of international legal norms governing private military and security companies (PMSCs), particularly regarding attribution of responsibility, legitimacy, and accountability. A central theme in the literature is the legal attribution of Wagner's actions to the Russian Federation. Letrone and Cabus (2023) explore the applicability of the Articles on State Responsibility for Internationally Wrongful Acts (ARSIWA). However, as the research shows, the Wagner group exhibits significant strategic autonomy vis-à-vis official Moscow. A few gaps in knowledge can be identified so far, including:

1. **Evidentiary Challenges:** Despite growing evidence of Wagner's ties to the Russian state, legal attribution remains elusive due to the high threshold for proving “effective control.”
2. **Regulatory Vacuum in NIACs:** A lack of binding international instruments governs PMSCs in non-international armed conflicts, leaving accountability mechanisms in a gap.
3. **Conceptual Ambiguity:** The legal classification of Wagner personnel (mercenaries, combatants, civilians) is inconsistent across jurisdictions and contexts.

4. Transnational Governance Limitations: Voluntary codes and industry-led initiatives (e.g., Montreux Document) lack enforcement power and are insufficient to regulate actors like Wagner.
5. Underexplored Corporate Structures: The role of shell companies and digital disinformation arms (e.g., Internet Research Agency) in Wagner’s operations is under-theorized in legal scholarship.

METHODOLOGY

This study employs an exploratory–descriptive qualitative design grounded in the sources and principles of international public law, with particular emphasis on the law of armed conflict. The primary legal analysis draws on both treaty law (international conventions) and customary international law.

Empirical data were collected from a range of primary and secondary open sources, including press releases, reports issued by international organizations, peer-reviewed scholarly articles, reputable news outlets, electronic databases, and selected expert interviews. These materials provided the factual and contextual basis for examining how international legal norms operate in practice.

The analysis employed established qualitative techniques, including general analytical reasoning, deduction, and synthesis, to identify patterns, interpret evidence, and conclude.

The research is framed as a socio-legal inquiry, an approach that investigates the dynamic relationship between international law and the society in which it functions. Moving beyond traditional doctrinal interpretation of legal texts, it explores how laws are formulated, implemented, and experienced in real-world contexts. This perspective enables a richer, more nuanced understanding of the interaction between legal norms and social realities, offering insights relevant to scholars, policymakers, and practitioners alike.

RESULTS

The findings reveal that the Wagner Group represents a distinctive and evolving actor in the contemporary security environment. Unlike traditional private military companies, it engages in a wide range of activities, including direct combat, cyber operations, resource exploitation, and political destabilization, often under the strategic direction of authoritarian regimes, thereby further weakening fragile democracies. This diversification complicates the application of a single legal framework and hinders the development of effective countermeasures.

Existing scholarship predominantly treats Wagner as a monolithic entity, focusing on state attribution, international humanitarian law, and criminal accountability. Such approaches fail to capture the organization’s fluid structure and adaptable tactics.

Moreover, the absence of binding international regulations governing private military and security companies creates permissive conditions that Wagner exploits. Through jurisdictional ambiguities, shell companies, and shifting identities, it evades legal responsibility, undermines international norms, and destabilizes the societies in which it operates.

These results suggest that addressing actors like Wagner necessitates international law to move beyond rigid classifications and adopt adaptive, function-based frameworks that can close accountability gaps and safeguard legal norms against hybrid warfare.

DISCUSSION

The Wagner Group Explained

The Wagner Group is a private military company (PMC) with close ties to the Russian Federation government. It was founded by Yevgeny Prigozhin, a businessman with connections to President Vladimir Putin, and Dmitry Utkin, a former Russian special forces officer whose call sign “Wagner” inspired the group’s name. Established around 2014, the group initially recruited from Russia’s special forces and elite units. Over time, it expanded to include convicts from Russian prisons, especially for operations in Ukraine. Wagner has been active in various conflict zones, including Syria, Libya, the Central African Republic, Mali, and Sudan. The group has been accused of numerous human rights abuses, including executions, torture, and other war crimes (CNN, 2023). The Wagner Group’s activities have raised significant concerns worldwide, prompting sanctions and calls for its designation as a terrorist organization (BBC, 2023).

Over the years, the Wagner Group conducted operations across several regions, including Africa and the Middle East. In Syria, for example, the organization fought along with the Russian military and the forces of the Assad regime, beginning in 2015 (INSS, 2023). The Wagner Group has spread like a virus and infected the government, military and economic sectors of the Central African Republic (CAR) to the extent that experts say the country is now a laboratory of Russian influence. The mercenaries have made capturing the country’s diamond market a priority, stealing and smuggling the precious gems while killing anyone who gets in their way (ADF, 2023).

While the fallout from Russia’s ongoing war in Ukraine remains uncertain, for the past several years, closer relations with Moscow have become an attractive prospect for several African governments. The absence of pressure from the Kremlin to meet some democratic threshold or standard, ensuring continuity of support, only bolstered the attractiveness for many regimes that have challenged or come to power via unconstitutional means. For the Wagner Group, these are precisely the types of client governments it has intentionally targeted and with which it has signed deals (Faulkner, 2022). Preying on instability and weak states, the Wagner Group has instrumentalized violence in an unchecked pursuit of economic resources and political power, with horrific consequences for civilian populations (The Sentry, 2023).

Private military companies are still illegal in Russia. However, due to their heavy participation in the war in Ukraine, they have been legitimized by being referred to by the MoD and the Russian Federation government under the umbrella term „volunteer detachments” (The Moscow Times, 2023). In June 2023, these links were finally confirmed by Russian President Vladimir Putin. After years of denying any links between the Wagner Group and the Russian State, Putin stated, “I want to point out and I want everyone to know about it: The maintenance of the entire Wagner Group was fully provided for by the State” adding that from May 2022 to May 2023, the Russian State paid more than 86 billion rubles to the Wagner Group. Putin stated that the Kremlin “fully funds” and “fully supplies” the PMC, thereby indicating that the Wagner Group is entirely dependent on Russia for the conduct of its military operations (Maddocks, 2023).

Wagner channels its funds through a complex network of shell companies, many of which hold their funds in the United Arab Emirates. These shell companies are essential to Wagner’s operational structure because they serve as intermediaries focused on exploitation, natural resource extraction, smuggling, and security operations (Moeder, 2023).

In June 2023, Wagner’s leader, Prigozhin, led a brief mutiny against the Russian military leadership, which ended with a deal brokered by Belarusian President Alexander Lukashenko. Shortly afterward, Prigozhin died in a plane crash. Wagner co-founder Dmitry Utkin died in the same plane crash as Prigozhin, along with most of the group’s directors. Once the leadership was out of the picture, pressure from the MoD increased. Shortly after his father’s death, twenty-five-year-old Pavel Prigozhin took over the reins of his father’s company, albeit with limited legitimacy (Graceffo, 2024). So, Prigozhin and many other leaders are gone, yet the group’s activity has only increased (Serwat and Nsaibia, 2024).

Parties of the Conflict and Applicability of IHL

The law of armed conflict (LOAC) and international humanitarian law (IHL) are often used interchangeably. While both terms frequently refer to the same body of rules, “law of armed conflict” is generally considered to cover a broader spectrum. LOAC encompasses both *jus ad bellum* and *jus in bello*, addressing both the law governing the resort to war and the law applicable during armed conflict. In contrast, international humanitarian law pertains solely to the *jus in bello* aspect. For this research, the term “international humanitarian law” is preferred. A clear distinction between combatants and civilians is a fundamental principle of IHL (Poposka and Nuredin, 2017, 73).

In contemporary conflicts, however, the proximity of civilians to military operations and their increased involvement in military activities create confusion. According to IHL, civilians must be protected against direct attack, unless and for such time as they take a direct part in hostilities (ICRC, 2024). All members of the armed forces of a party to the conflict are considered combatants, except medical and religious personnel. Common Article 3 of the Geneva Conventions and Additional Protocol II refer to “armed forces” and Additional Protocol II also to “dissident armed forces and other organized armed groups”. Treaty provisions use different designations that can apply to “combatants” in the context of non-international armed conflicts, including persons taking an active part in the hostilities; members of dissident armed forces or other organized armed groups; persons who take a direct part in hostilities; civilians who took direct part in hostilities; civilians taking direct part in hostilities; and combatant adversary.

The armed forces of a party to the conflict consist of all organized armed forces, groups and units which are under a command responsible to that party for the conduct of its subordinates. This is recognized as a customary rule. In essence, this definition of armed forces covers all persons who fight on behalf of a party to a conflict and who subordinate themselves to its command. As a result, a combatant is any person who, under responsible command, engages in hostile acts in an armed conflict on behalf of a party to the conflict, the conditions imposed on armed forces vested in the group as such. The members of such armed forces are liable to attack. This definition of armed forces builds upon earlier definitions contained in the Hague Regulations and the Third Geneva Convention, which sought to determine who are combatants entitled to prisoner-of-war status. Article 1 of the Hague Regulations provides that the laws, rights and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling four conditions: 1) to be commanded by a person responsible for his subordinates, 2) to have a fixed, distinctive emblem recognizable at a distance, 3) to carry arms openly, and 4) to conduct their operations in accordance with the laws and customs of war.

It further specifies that in countries where militia or volunteer corps (so-called “irregular” armed forces) constitute the army, or form part of it, they are included under the denomination “army”. This definition is also used in Article 4 of the Third Geneva Convention, with the addition of organized resistance movements. The Hague Regulations and the Third Geneva Convention consider all members of the armed forces to be combatants and require militia and volunteer corps, including organized resistance movements, to meet four conditions to be considered combatants entitled to prisoner-of-war status. The idea underlying these definitions is that the regular armed forces fulfill these four conditions in and of themselves. As a result, they are not explicitly listed in this regard. The definition in Additional Protocol I does not distinguish between the regular armed forces and other armed groups or units, but defines all armed forces, groups, and units under a command responsible to a party for the conduct of its subordinates as the armed forces of that party. Both definitions express the equivalent idea, namely that all persons who fight in the name of a party to a conflict – who “belong to” a party in the words of Article 4 of the Third Geneva Convention – are considered combatants. The four conditions stipulated in the Hague Regulations and the Third Geneva Convention have been condensed into two conditions, the primary difference being the exclusion of the visibility requirement for defining armed forces. The condition of visibility is relevant with respect to a combatant’s entitlement to prisoner-of-war status. In addition, Article 43 of Additional Protocol I does not mention the requirement to respect the laws and customs of war, but includes a requirement to have an internal punitive system to ensure compliance with international humanitarian law; however, this variation does not substantially alter the definition of armed forces for the purposes of defining those combatants entitled to prisoner-of-war status. Articles 43 and 44 of Additional Protocol I reaffirm what was already stated in Article 85 of the Third Geneva Convention, namely that “prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention”, that is to say that they retain their status. These provisions thus preclude any attempt to deny prisoner-of-war status to members of independent or regular armed forces on the allegation that their force does not enforce some provision of the customary or conventional law of armed conflict.

The definition in Article 43 of Additional Protocol I is now commonly applied to all forms of armed groups that belong to a party to an armed conflict to determine whether they constitute armed forces. It is consequently no longer required to distinguish between regular and irregular armed forces. The incorporation of paramilitary or armed law enforcement agencies into the armed forces is typically carried out through a formal act by a state organ. In the absence of formal incorporation, the status of such groups will be determined by the facts and in light of the criteria for defining armed forces. When members of these units participate in hostilities and fulfill the criteria of armed forces, they are considered combatants.

The definition of civilians as persons who are not members of the armed forces is outlined in Article 50 of Additional Protocol I. An exception to this rule is the *levée en masse*, in which the inhabitants of a country that has not yet been occupied, upon the approach of the enemy, instinctively take up arms to resist the invading troops without having time to form a cohesive armed force. Such persons are considered combatants if they carry arms openly and respect the laws and customs of war.

The consequences of being distinguished as a combatant in an international armed conflict are substantial, as only combatants have the right to participate directly in hostilities. Upon capture, combatants entitled to prisoner-of-war status may neither be tried for their

participation in the hostilities nor for acts that do not violate international humanitarian law. Combatants must distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack. If they fail to do so, they do not have the right to prisoner-of-war status.

Status of Mercenaries under International Law

Private Military Companies (PMCs) operate in a complex, often controversial space, and their regulation and oversight vary significantly across jurisdictions. International humanitarian law does not address mercenary activities or impose responsibility for them, as they are considered illegal. Although their use is illegal, they have been widely exploited by various actors, not just Russia.

The first applicable general law is the UN Charter. Article 2(4) of the Charter stipulates: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.” This provision essentially prohibits the use of force by one state against another, except in the specific circumstances outlined in the Charter (namely, individual or collective self-defense and measures authorized by the Security Council). The use of mercenaries to employ force against another state falls within the scope of this prohibition.

Common Article 3 of the Geneva Conventions (1949) considered as customary norm of international law considers that in any conflict, whether of international or non-international character, “persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.” Mercenaries are not members of the armed forces, nor do they enjoy the protection provided by combatant status (ICRC, 2024). Protocol I, in addition to the Geneva Conventions relating to the Protection of Victims of International Armed Conflict (1977), Article 47 defines a mercenary:

A mercenary is any person who:

1. They are recruited locally or abroad to fight in an armed conflict.
2. Does, in fact, take a direct part in hostilities.
3. Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that party.
4. Is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict.
5. Is not a member of the armed forces of a Party to the conflict.
6. Has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

These requirements are cumulative, meaning that all of them must be met for an individual to be categorized as a mercenary. This definition is very restrictive. Additionally, the definition requires evidence that a person accused of being a mercenary is “motivated to take part in the hostilities essentially by the desire for private gain” and is promised “material

compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces.” As the purpose of international humanitarian law is to extend, rather than restrict, protection, the scope of this definition is narrow to ensure that the loss of special protection occurs only in limited circumstances.

Hostilities between Russian armed forces and Ukrainian armed forces constitute an international armed conflict governed by international humanitarian treaty law (primarily the four Geneva Conventions of 1949 and their first additional Protocol of 1977 [Protocol I], and the Hague Conventions of 1907 regulating the means and methods of warfare), as well as the rules of customary IHL. Both Ukraine and Russia are parties to the 1949 Geneva Conventions and Protocol I (HRW, 2022). In 2019, Russia revoked specific provisions of Additional Protocol I to the Geneva Conventions that protect victims of international armed conflicts. A Russian parliamentary website cites a letter from him as saying that the Additional Protocol I to the 1949 Geneva Convention was ratified by the Soviet Union’s Supreme Council, or parliament, in 1989. Putin’s letter, dated October 16 and addressed to the speaker of the lower house of parliament on the “recall of the statement made at the ratification”, said an international commission, set up to investigate war crimes against civilians, “has effectively failed to carry out its functions since 1991” (Reuters, 2019). According to official documents and the ICRC’s IHL database, available online, the revocation only refers to Article 90 of Additional Protocol I, relating to international fact-finding commissions. However, some of the rules codified in the Additional Protocol are customary international law norms.

The International Convention against Recruitment, Use, Financing and Training of Mercenaries (1989) is also a significant document. Russia is not a party to the Convention, meaning it has neither signed nor ratified it. The Convention establishes a range of offences that may be committed by individual mercenaries, as well as by those who recruit, use, finance, or train mercenaries, and by States parties, and imposes several related obligations on States parties. The Convention entered into force on October 20, 2001 (UN, 1989).

The Montreux Document on Private Military and Security Companies (2008) is an intergovernmental document intended to promote respect for IHL and human rights law whenever PMSCs are present in armed conflicts. It is not legally binding in itself but rather a compilation of relevant international legal obligations and good practices (ICRC, 2020). Crucially, the document recommends that states conduct due diligence on PMCs prior to contracting, and that PMCs conduct due diligence on personnel prior to hiring (Bodurtha, 2022).

In 2013, an association of PMCs, the International Code of Conduct Association (ICoCA), announced an International Code of Conduct (ICoC) for Private Security Service Providers to ensure that providers respect human rights and humanitarian law. Despite their worth, both the Montreux Declaration and the Code of Conduct, as legal instruments, remain non-binding.

The UN Working Group on the use of mercenaries seeks to address knowledge gaps by reviewing existing legal, human rights, and international humanitarian law frameworks related to mercenaries, associated actors, and PMSCs (UNOHCHR, 2020).

In contrast, national legislation varies widely but often addresses accountability. For example, the U.S. requires PMCs to register with the Department of State and comply with ITAR. It applies laws such as the Military Extraterritorial Jurisdiction Act (MEJA) to hold PMC personnel accountable for crimes committed abroad (Olivova, 2021).

State Responsibility and Attribution

Notwithstanding the substantial support that the Kremlin now admits providing to the PMC, Russia's domestic law does not designate the Wagner Group as an organ of state. Nevertheless, a private entity can qualify as a state organ based on its factual relationship with the state rather than its status under domestic law (Article 4 of the International Law Commission's Articles on State Responsibility, International Law Commission, 2001).

The International Court of Justice (ICJ) recognized this *de facto* status as a State organ in the Bosnian Genocide case (para. 391-394). In its judgment, the ICJ said that entities can be equated with state organs “provided they act in ‘complete dependence’ on the state, of which they are ultimately merely the instrument” (ICJ, 1996). A circumspect approach, however, is needed before concluding that the Wagner Group qualifies as a *de facto* state organ of Russia, meaning that all its members' conduct when acting in their official capacity is attributable to the state. If the Wagner Group is considered a *de facto* state organ of Russia, the Russian state could be held responsible for the group's actions under international law. This includes violations of the law of armed conflict and human rights abuses. For Russia to be held accountable, it must be shown that the Wagner Group's actions can be attributed to the state. This can be complex, as it involves proving that the group operates under the control or direction of the Russian government, even though the group has demonstrated independence on multiple occasions. The Wagner Group has been implicated in numerous violations of international law, including war crimes and human rights abuses. If these actions are attributed to Russia, the state could face international legal consequences. These connections raise complex legal questions and potential consequences for both the Wagner Group and the Russian state, most notably for the international community and the collective security system.

Additionally, the Wagner Group has been operating for more than a decade. Although the PMC has likely relied heavily on Russia throughout its existence, the group's status would need to be considered at the time the specific international law violations were committed. Meanwhile, the group has demonstrated operational independence on several occasions. This means that the deeds of the group can be attributed to Russia, leading to state responsibility, if the Wagner Group qualified as a *de facto* state organ at the time in question.

The question of whether the Wagner Group's actions can be attributed to Russia under international law hinges on the degree of control Russia exercises over the group. The International Law Commission's (ILC) Draft Articles on State Responsibility offer guidance, stipulating that state responsibility may be established if a non-state actor's conduct can be attributed to a state under specific conditions of control, typically defined by two main tests: the practical control test from the International Court of Justice (ICJ) and the overall control test, which the International Criminal Tribunal for the former Yugoslavia (ICTY) often employs.

The ICJ's adequate control standard, stemming from cases like *Nicaragua v. United States*, requires that the state not only finances or equips a non-state actor but also directs specific actions. Applying this to Wagner, scholars argue that there is a limited trail of direct Russian oversight of tactical operations, making it challenging to meet the strict demands of the adequate control standard (Casey-Maslen, 2023). While Wagner receives logistical and material support from Russian military sources, recent international law conferences on Russia's involvement in Ukraine noted that direct evidence of Russian command over Wagner's battlefield tactics remains scarce (EP, 2022). The ICTY's overall control test, however, has been recognized as a looser but more practical standard, especially where hierarchically structured,

state-supported groups like Wagner are concerned. The ICTY applied this test in *Prosecutor v. Tadić*, determining that a state can be held responsible if it organizes, funds, and provides logistical support to a non-state group, even if it does not control every specific act. Under this standard, Russia’s extensive material and strategic support (such as the use of shared military bases and the deployment of personnel) bolsters the argument for “overall control” (Stockton Center, 2023). For example, Wagner’s access to GRU (Main Intelligence Directorate) resources, weapons, and strategic intelligence, along with close ties between Russian officials and Wagner’s leadership, provide significant grounds for meeting the overall control threshold.

In this context, if Russia is found to exercise overall control over Wagner, Russia would bear international law responsibility for Wagner’s actions, as observed in recent analyses of private military contractor accountability. This attribution has significant implications, as it suggests that Russia’s liability could extend to Wagner’s alleged violations of IHL in Ukraine, Africa, and beyond (Schmitt, 2023). The broader impact is that state responsibility frameworks may increasingly hold states accountable for actions taken by affiliated private military entities, mainly in gray areas of state-sponsored warfare.

International Response toward Wagner Group

Following the atrocities against Ukrainian civilians, members of the European Parliament (EP) have recognized Russia as a state sponsor of terrorism. As the EU cannot currently officially designate states as sponsors of terrorism, the EP calls on the EU and its member states to establish the necessary legal framework. In the meantime, MEPs (Members of European Parliament) call on the Council to include “the Russian paramilitary organization ‘the Wagner Group’, the 141st Special Motorized Regiment, also known as the ‘Kadyrovites,’ and other Russian-funded armed groups, militias and proxies” on the EU’s terrorist list (European Parliament, 2022). As a result, various individuals and entities have been subject to asset freezes and travel bans. EU Foreign Policy Chief Josep Borrell stated that Wagner’s activities pose a threat to the people in countries where it operates and the EU (TRT World, 2022). Under this pressure, the EU has enacted targeted sanctions, imposing asset freezes and travel bans on numerous individuals and seven entities tied to Wagner’s operations. EU Foreign Policy Chief Josep Borrell underscored that Wagner’s activities pose a serious threat to the stability of nations where it operates, emphasizing the EU’s commitment to countering its influence globally (Borrell, 2023).

The experts – members of the Working Group (WG) on the use of Mercenaries, the WG on Enforced or Involuntary Disappearances, and other Special Rapporteurs - said Wagner had allegedly recruited both Russian and foreign nationals serving sentences in correctional facilities. The independent experts stated that they had been made aware of pressure tactics employed by Wagner recruiters, suggesting that in some cases, recruitment was carried out through threats or intimidation (UN News, 2023). UN experts, including members of the WG on the use of Mercenaries and the WG on Enforced or Involuntary Disappearances, have voiced serious concerns regarding Wagner’s recruitment practices. Reports submitted to the United Nations suggest that Wagner has allegedly recruited individuals, including both Russian nationals and foreign prisoners, under coercion and intimidation, often targeting individuals serving prison sentences. These independent UN experts noted that Wagner recruiters leveraged pressure tactics and even threats to secure participation, thereby violating international norms on recruitment practices (UN, 2023).

The United States has taken a significant step by designating Wagner as an international “criminal organization.” This classification enables the U.S. Treasury to freeze the group’s assets and impose broader sanctions against entities and individuals associated with Wagner, particularly in relation to its operational activities in conflict zones such as Ukraine, Libya, and parts of Africa. This label underscores the U.S. position that Wagner’s actions amount to criminal activity, implicating not only the group’s fighters but also its command structure, which operates with significant support and oversight from Russian authorities (U.S. Department of the Treasury, 2023).

Beyond the EU and U.S., several African nations and international bodies are beginning to scrutinize Wagner’s presence and activities. For example, Wagner’s role in resource extraction and alleged involvement in extrajudicial killings in countries like the Central African Republic have brought increased attention from international human rights organizations, further damaging its global reputation (Human Rights Watch, 2023).

The combined international response has placed immense pressure on Wagner and its affiliated networks. These sanctions and designations aim to weaken the group’s operational capacity, curtailing its financial resources and mobility. However, as Wagner continues to operate in regions with fragile governance structures, it poses ongoing challenges for international law enforcement and security frameworks.

Responsibility of the Group under International Law

Members of the Wagner group have been seen waving a Russian national flag and the Wagner Group’s flag on the rooftop of a damaged building in Bakhmut, Ukraine. During the war in Ukraine, mercenaries have often worn the group’s distinctive skull badge emblem, while also being supplied with uniforms and weapons by the Russian state (Vincent, 2023). On the other hand, Prigozhin, owner and founder of the mercenary organization, called for an armed rebellion and threatened to rush to Moscow to oust the official whom he accused of ordering the bombing of his war camps in Ukraine. The rivalry between the then-head of the Wagner Group, Yevgeny Prigozhin, and the MoD leadership escalated into a rebellion on June 23-24, 2023. The conflict between official Moscow and Wagner was further resolved on Belarusian soil, with the support of President Lukashenko (Serhan, 2023).

Although the government provided them with increasingly significant resources, Wagner had no legal authority to do so. Prigozhin held no official position and was neither appointed nor elected, meaning that he technically had no authority to answer to. On August 23, Prigozhin and nine others, including fellow founder Dmitry Utkin, were killed in a plane crash as his private jet traveled from Moscow to Saint Petersburg (FT, 2023). After Prigozhin’s death, Putin ordered Wagner fighters to sign an oath of allegiance to the Russian state - a step that Prigozhin had opposed due to his anger at the MoD, which he said risked losing the Ukraine war. According to journalistic sources, some of the group’s fighters have signed contracts with the MoD, though many more have joined various Russian private military groups (Reuters, 2023).

Another point of interest is that most Wagner fighters in Ukraine since 2022 have been Russian citizens. However, interest in “fighting for the cause” was probably not a significant incentive for them to sign up, nor will it do much to motivate them to stay. Wagner fighters are paid significantly more than their counterparts in the Russian army, which may explain the potential unwillingness to have their Wagner contracts converted over to the official Russian military” (Dunigan, 2023).

On the other hand, Article 359 of Russia’s Criminal Code outlaws’ mercenary activity. The law states that “recruitment, training, financing or other material support of a mercenary, as well as their participation in an armed conflict or military operations” carries heavy criminal penalties. At one point, President Putin stated that “Wagner PMC does not exist” when asked if Wagner would be kept on as a fighting unit. “We do not have a law for private military organizations. It simply does not exist” (Hodge, 2023).

CONCLUSION

International humanitarian law (IHL) undoubtedly applies to the conflict between Russia and Ukraine. This conflict is classified as an international armed conflict (IAC), meaning the full range of IHL treaties, including the Geneva Conventions, is applicable. Still, the Wagner group cannot be recognized as the party to the conflict unless state organ attribution is clearly proved. International human rights law remains in effect and continues to apply at all times, including during armed conflict and occupation, to which the laws of war also apply. In some circumstances, a humanitarian law norm may supersede a human rights norm, serving as the *lex specialis* or the more specific norm applicable to the particular circumstance. Torture and extrajudicial executions of Ukrainian prisoners of war, targeted attacks on civilians, and occupying critical infrastructure facilities on Ukrainian territory are some of the crimes that the Wagner Group is accused of committing (Rzheutka, 2023). On the other hand, the situation in Africa and the Middle East, where the Wagner Group operates, differs, so in some cases, they operate as private military contractors, providing basic security; however, in most cases, the story goes far beyond that.

For potential criminal allegations, national courts may be responsible, or a special *ad hoc* tribunal may be appointed. The International Criminal Court (ICC) can have jurisdiction over the Wagner Group if its members are involved in crimes that fall under the ICC’s mandate, such as war crimes, crimes against humanity, or genocide. The ICC’s jurisdiction is based on the Rome Statute, to which Ukraine has made declarations accepting the Court’s jurisdiction over crimes committed on its territory since 2014 (Opinio Juris, 2024). Given the Wagner Group’s involvement in the conflict in Ukraine, the ICC could investigate and prosecute its members for any alleged crimes committed there. Additionally, the ICC can exercise jurisdiction if the crimes are committed by nationals of a state party to the Rome Statute or if the United Nations Security Council refers the situation to the ICC. However, there are limited precedents for prosecuting PMCs and non-state actors. Alternatively, national courts can prosecute potential allegators on an individual basis.

The mere existence of the Wagner group is illegal under both international and national Russian law. According to the available data, the Wagner Group is a Russia-based, unincorporated private military entity (Open Sanctions, 2024), operating essentially in a legal vacuum. It carefully hides its business dealings in a maze of shell companies and manages to evade Western sanctions (TRT World, 2023). However, illegality does not alter the mere fact of its existence, its deeds, and its effects. The group itself is not homogeneous: some participants are there for lucrative reasons, some have been recruited from Russian prisons on the stake of their own lives.

Their attribution to the state apparatus, if proven by a future judicial decision, might affect sanctions against the state. However, for war crimes and crimes against humanity, separate decisions on a case-by-case basis shall be made, and a special tribunal will probably be

established. PMCs, including Wagner, often operate in multiple countries, making it difficult to enforce regulations consistently. Different legal frameworks and levels of enforcement can create accountability gaps; therefore, tools such as mutual legal assistance in criminal matters and legislative harmonization are crucial to the effectiveness of justice in holding perpetrators accountable. By leveraging the identity and structure of a PMC group, the Wagner group has successfully operated as an alternative means of expanding and exploiting foreign and domestic resources to serve the Russian government's interests abroad (Hinton, 2024).

Nevertheless, there is significant evidence suggesting that the Wagner Group is associated with Russia. Russian President Vladimir Putin has publicly recognized that the Russian state has funded and supplied the Wagner Group (Camut, 2023). After months of infighting between Russian defense officials and the Wagner Group, the Deputy Defense Minister, Nikolai Pankov, announced on June 10, 2023, that “volunteer formations” would be required to sign contracts with the Russian MoD before the end of the month (Maddocks, 2023).

However, establishing legal attribution under international law requires more than just financial support. It involves proving that the Wagner Group acts, or has acted, as a *de facto* state organ, or that Russia exercises effective control over its operations. The complexity of the relationship and the Wagner Group's operational autonomy across various contexts make this a challenging legal determination (Maddocks, 2023a). Establishing a direct link between a non-state actor and a state is complex; for the Wagner Group, proving that Russia exercises effective control over its operations is essential, but difficult.

Gathering reliable evidence in conflict zones is fraught with difficulties and challenges throughout. Usually, the perpetrators have prepared their way out through powerful connections, corrupt practices, and wealth far before the regime that created them fails. This includes securing witness testimonies and physical evidence, which ongoing hostilities can compromise. These challenges highlight the need for robust international cooperation and clear legal frameworks to effectively address the actions of non-state actors, such as the Wagner Group. There is also an urgent need to strengthen international legal instruments, e.g., enhancing treaties and conventions that address the accountability of non-state actors, as this can provide a stronger legal basis for prosecution.

Additionally, increased cooperation and mutual legal assistance are essential in both bringing perpetrators to justice and preventing new atrocities. Providing more support to international bodies like the ICC can help them effectively investigate and prosecute war crimes. Assisting countries in building their legal and judicial capacities to handle complex cases involving non-state actors is also an asset, as well as public awareness and advocacy.

Latest reports from journalists indicate that the previously all-powerful Wagner Group has been slowly reduced in size and dismantled in many of the countries where it operated since the death of Prigozhin last year. Nevertheless, even if the group diminishes in total, responsibility for alleged wrongdoing must not be withdrawn, as impunity is the worst enemy of human rights and peace. Violence in conflict zones often becomes cyclical, and even if the conflict ends, all the assets that led to violence remain, in most cases, not in vain, to show up later or in another region, generating new conflicts and threats that erode democratic governance and liberal values upon which the societies we live are built.

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