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The Privatization of War

Final Assignment in Modern Studies
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Statements:

I affirm, that I alone am the writer of this assignment and that it is the product of my own investigation. _____

Jóhann Ásmundsson

This final assignment fulfills, in my opinion the requirements for a BA thesis in Modern studies. _____

Giorgio Baruchello

Abstract:

The reemergence of private enterprise in warfare is an uncontested reality. Since the Peace Treaties of Westphalia in 1648, the nation-state has in praxis held monopoly of organized violence. Eric J. Hobsbawm predicted in the year 1999 that the use of private enterprise in warfare would increase in the near future and, that it would potentially change warfare in fundamental ways. This thesis is an assessment of the operation of private military companies (PMC), since Hobsbawm's predictions, and the way in which this current reality, mostly revolving around the war in Iraq and the U.S.-led War on Terror, has changed the ways in which war has been fought. The basis for private enterprise in warfare is examined, also the source of the apparent acceleration and the increasing scale, in the use of PMC's in the time period from 1999 - 2007. The global market for force is on the rise mainly in connection to the War on Terror. Further the potential effects, that the increased reliance on PMC's can have on the deployment of military force, are assessed and three main issues and questions are raised in that regard: a) democracy; "Who decides?" b) Control of force; "Who controls what?" c) The legitimacy; "What laws apply?"

The conclusion is, that there has been a significant increase in the use of PMC's in the period from the year 1999 to the year 2007. a) The decision-making process on the use of force is being shifted directly from democratic control of national assemblies to the executive branch only, and even worse, indirectly to the boardroom meetings of global conglomerates. b) The control of force has been defused and loss of control is evident. c) The legal frame is at the best ambiguous, crimes are not reported and indictments are rare.

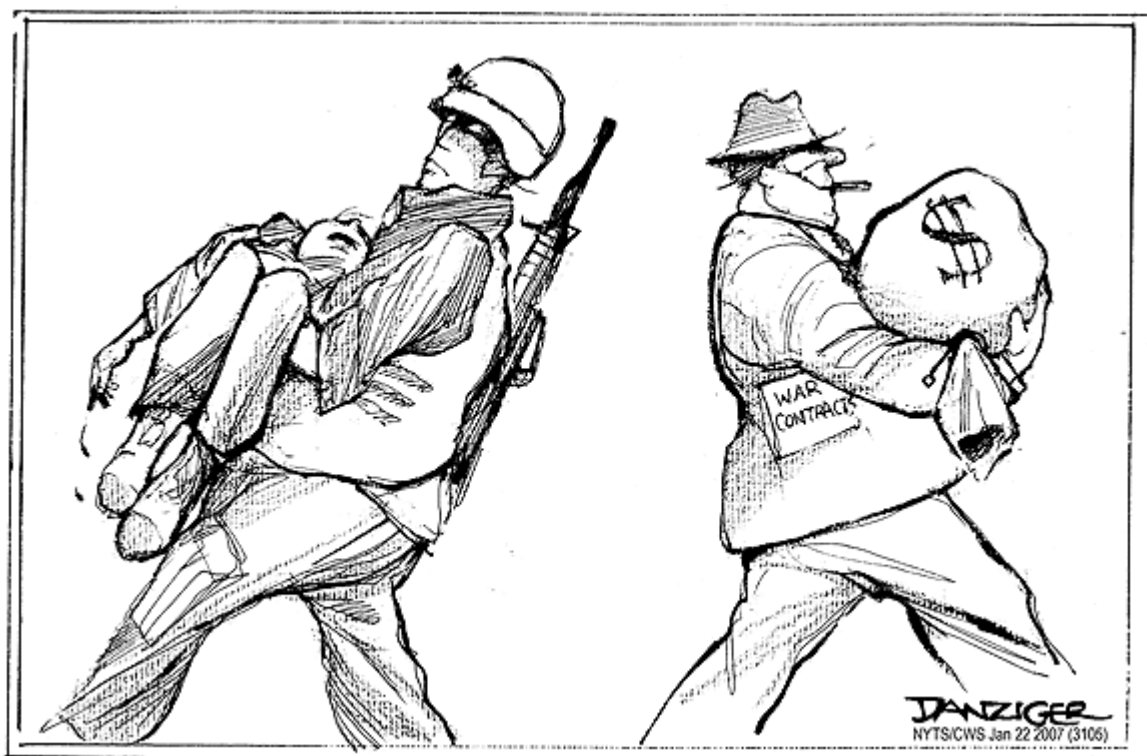
Útdráttur:

Einkaframtak í stríðsrekstri er ein birtingarmynd þess frjálsræðis er ríkir í markaðshyggju nútímans. Allt frá friðarsamningunum í Westphalen 1648 hefur þjóðríkið í raun haft einkaleyfi á skipulögðu ofbeldi. Eric J Hobsbawm sá fyrir sér árið 1999 aukna þátttöku einkaaðila í stríðsátökum í sinni nánustu framtíð, og að sú aukna þátttaka myndi breyta í grundvallaratriðum öllum stríðsrekstri. Í þessari ritgerð verður leitast við að meta hvort að framtíðarsýn hins virta sagnfræðings Eric Hobsbawm hafi orðið að veruleika. Herverktakar eru einkarekin fyrirtæki sem þjóna þeim hlutverkum sem herinn sjálfur hefur haft með höndum (e: private military companies). Þessi fyrirtæki blómstra í þeirri miklu bylgju einkavæðingar og útboða til hverfataka, að miklu leyti í tengslum við stríðið í Írak, sem að Ísland er þátttakandi í, og stríðið gegn hryðjuverkum, sem Íslenska ríkisstjórnin hefur stutt dyggilega. Herverktakar hafa hreiðrað um sig á Íslandi, sem segir sögu mikillar þenslu í þessum iðnaði eyðingar. Bakgrunnur einkaframtaks í stríði er skoðaður og grennslast er fyrir um upptök þenslunnar í atvinnugreininni. Auk þess verður skoðað hvernig einkavæðingin fellur saman með: a) Lýðræði, b) Virkni og stjórn hernaðaraðgerða. c) Lagalegu umhverfi sem fyrir er.

Niðurstaðan er sú að mikil aukning hefur verið á hlut hverfataka á þeim átta árum sem liðin eru frá ummælum Hobsbawm. a) Lýðræðið á í vök að verjast. b) Virkni og stjórnun hernaðar aðgerða líður fyrir flóknari boðskipti og óljósari boðskiptaleiðir. c) Lagalegu umhverfi er um margt ábótavant, nær ekki utan um illa skilgreinda starfsemi hverfataka, glæpir eru ekki tilkynntir og ákærur fátíðar.

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I would like to thank my instructor Giorgio for agreeing to instruct me on the making of my thesis, for accepting my thesis for evaluation, and finally, for tolerating my *modus operandi*.



(Danziger, 2007)

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Preface

While reading, thinking, writing and rethinking the subject of Private Military Companies (PMC's), I was stunned to see the frankness of some of the material available on the world wide web. There is a lot of debate out there. I have joined mailing lists dealing with missionaries and war profiteers, I have also watched powerful exposés like PBS-Public Broadcasting Systems *Frontline*; "Private Warriors" and Nick Bicanics new documentary "Shadow Company" thus seeing with my own eyes, mediated through the camera lens, what is taking place in today's Iraq, hearing what both soldiers and contractors have to say about this reality. But I have chosen not to use it in my thesis. It may have influenced my approach but not the content directly. I was prone to describe reality as it is right now in Iraq. Contractors buying guns on the black market in Iraq on a 'mission impossible' that pays very well. However that is like entering into a world of fiction, in bad Hollywood movie perhaps. More critical distance was needed, hence I decided to try to find the origin of this reality emerging.

While gathering material I came across multitudes of articles and web pages trying to raise public awareness on this debated issue. Some are on a different mission, fighting fervently against the trend of privatization in the realm of military functions. Because of this, trying not to be biased and to assess the subject matter as objectively as possible, I have refrained from using names of individual companies in relation to certain instances or incidents. I have preferred to put names and web-addresses of some PMC's in an appendix at the end of the thesis. There are plenty of PMC's operating worldwide, though Iraq is currently the main platform for growth. Today across the continents it is just 'business as usual' to send out some PMC's hired guns, to do the 'dirty job', because it is not practically, politically or economically feasible to deploy the national military. In order not to get lost in the jungle of

PMC's or analyzing different specific deals and contracts in excessive detail, identifying and labeling particular companies, I have rather assessed the situation in general, stressing also how the privatization of warfare is no novelty but rather resembles a return to a pre-modern state of affairs.

The subject, the privatization of warfare, has been more fascinating than stunning, keeping my brain busy trying to comprehend the scope of this complex phenomenon, driven by the thrust of economic globalization, of which this subject represents only a small portion. Each chapter in this general assessment could have been an essay in itself, relevant issues such as the lack of regulation concerning PMC's, or the legitimacy of the invasion and occupation of Iraq to begin with, and the controversy in which the international community has played out it's so-called liberation could all be the subject matter for much larger dissertations¹. In this thesis I merely touch on the fact that PMC's are working in a tight connection with multinational corporations (MNC's) involved in resource extraction and exploitation of foreign labor and lands.

Questions of ethics hover over an assessment of such an industry as the Private Military Industry (PMI), where military power and coercion are up for sale. In this thesis I do not however attempt to address ethical concerns directly.

¹ Operation Iraq Liberation (OIL) was promptly changed to Operation Iraq Freedom (OIF).

Introduction

In this thesis I will examine and assess Eric Hobsbawm's 1999 prospects concerning the growth of privatized security on a global scale, a return to private enterprise in war:

"Potentially, it is a fundamental change" (Hobsbawm, 2000, p. 12). "I believe the munitions, provisions, and clothing for the troops will be increasingly tendered to private firms. In my opinion, these features will become increasingly important in future wars" (Hobsbawm, 2000, p. 13-15).

Eric Hobsbawm is one of the most prominent contemporary historians, best known for his original construal of modern history, i.e. from the French Revolution to the end of the Cold War. Hobsbawm's novel-historical paradigm is framed by events rather than commonplace dates in history, for example beginnings of decades or centuries. In his books Hobsbawm divides history into ages, the first one starting with the French Revolution in 1789 and ending with the failed revolutions of 1848; this is an era which he calls *The Age of Revolution*, the first in the trilogy describing the "Long Nineteenth Century 1789-1914". The second is *The Age of Capital*, from 1848 to 1875, covering the heights of the industrial revolution and the extension of the capitalist economy to the entire world, until the 1870's slump. The third one is *The Age of Empire* stretching through the rise of western colonial empires until the First World War, i.e. from 1875 to 1914.

From there Hobsbawm leads his analysis into the "Short Twentieth Century 1914-1991", as of the book *The Age of Extremes: The Short 20th Century*. This is an age which he again divides into three parts. The first one is the 'Age of Catastrophe', beginning with the First World War in 1914 and ending with the aftermath of the Second World War. 'The Golden Age' follows with its exceptional economic growth and social transformations reaching an end in the early

1970s. Then an era of instability and crises unfolds called ‘The Landslide’, climaxing in the 1990s, with the collapse of “real socialism”.

Hobsbawm tries not merely to record the main events in modern history, but also and above all to ‘understand and explain’ them. In the preface of *The Age of Capital* he states that his objective is to draw together the facts and ‘make sense of them’. He does not try to hide from the reader where he is coming from. He acknowledges the non-neutrality of historiography and warns the reader of the book that he cannot conceal ‘a certain contempt, for the age with which it deals’ (Hobsbawm, 1996).

In the book *The New Century*, which is a translation of an interview given to the Italian journalist and Senator Antonio Polito in the year 1999, Hobsbawm explains his thought on war and peace by stating that: “The general nature of war is a much more significant problem than its specific reasons” (Hobsbawm, 2000, p. 8). Thus he describes the transformations brought about by advanced technology and the ways in which warfare has changed in recent times. Most significant is in his view the reemergence of private enterprise in this context, not only in the form of well-equipped and heavily-armed private interest groups waging war against each other, but also as the increasing privatization of conflicts directly linked to governments. Eric Hobsbawm speaks of the Balkan wars as the last byproduct of the Great War, marking the end of an era, but he also speaks of them as an example of this new trend, i.e. the growing presence of private enterprise.

Today, seven years after the publication of *The New Century*, we can look back and assess whether increased privatization of warfare has taken place or not. The above-mentioned Gulf War ended in the year 1991, on the brink of the ‘New Century’; what has been the general

trend since then? How widespread has been the presence of private enterprise during an era of almost constant aggression and fighting in the Persian Gulf region? Did it increase or decrease with the 2003 invasion and successive occupation of Iraq? And has the recent U.S.-led 'War on Terror' put further pressure on the conventional ways in which war had been fought during the twentieth century? In brief, were Hobsbawm's predictions correct?

In order to answer these questions I shall examine recent literature on the existing trends and assess whether there has been an increase in the scale of privatization of warfare since 1999. Further, I will assess the consequences of privatization on the control of deployed military force and how war is being fought today.

The subject of this thesis leads me to investigate civil actors on a corporate level whose business, due to its controversial nature, is largely covert or concealed. This makes research quite difficult, despite these private entities extensive advertising and self-promotion as legitimate business providing services. In order to assess if there has been a fundamental change in warfare due to privatization and if the privatization has been increasing in the new millennium, I shall refer to scholarly works in the fields of security studies, political science and international relations written in the period 1999 - 2007. My four main references are going to be Robert Mandel's ² 2002 *Armies Without States: The Privatization of Security*, Peter Warren Singer's ³ 2003 *Corporate Warriors: The Rise of the Privatized Military Industry*, Deborah D. Avant's ⁴ 2005 *The Market for Force: The Consequences of Privatizing Security* and Gerald Schumacher's ⁵ 2006 *A Bloody Business: America's War Zone*

² Robert Mandel is Professor of International Affairs at Lewis and Clark College.

³ Peter Warren Singer is National Security Fellow in the Foreign Policy Studies Program at the Brookings Institution and Director of the Brookings Project on U.S. Policy towards the Islamic World.

⁴ Deborah D. Avant is Associate Professor of Political Science and Director of the Institute for Global and International Studies at the Elliott School of International Affairs, George Washington University.

⁵ Schumacher is a retired Colonel in The United States Army Special Forces.

contractors and the Occupation of Iraq. In addition I shall make use of recent scholarly articles, official reports and information from current media sources, most of which is retrieved from the internet.

As the titles above suggest, the two terms most commonly used to refer to companies participating in the global market for force are, “private security companies” and “private military companies”. I wish to use a term which can encompass, on the one hand, the outsourcing of security in war-torn countries where weak states are not able to maintain it by themselves and, on the other hand, the outsourcing of tasks within the actual area of military operations, hence I have opted for Private Military Industry (PMI). Instead the term Private Military Company (PMC) will be used to refer to the private companies operating within PMI.

The major field of contemporary private military operations is in Iraq, hence the focus of this thesis is on the ongoing war in Iraq. Although the emphasis of my thesis is on Iraq, this is not to be understood as an indication of this trend being unique to that country, in fact it is a global phenomenon. PMC’s are legitimate businesses registered in all continents and are operating in many of the war-torn areas reaching the headlines of today’s news media.

The History of Warfare:

Mercenaries, State Monopoly and Private Enterprise

In part one of Hobsbawm’s *Age of Extremes* (1995), the Age of Catastrophe, the author describes the horrors of two world wars and how the industrialization of modern warfare has played a crucial role in making such horrors possible: this is the “Age of Total War” (Hobsbawm, 1995, p. 21-54).

Innovations in military technology and organization have coincided with the development of the state, altered the balance between military powers and the ways in which war has been fought. The arrival of gunpowder in the late middle ages and in result new defense technologies, led to a qualitative arms race. The growing cost and scale of warfare called for increased centralization and organization of political authority with effective taxation and developed finance to conduct modern warfare. This resulted in increasingly centralized European state (Held, McGrew, Goldblatt & Perraton, 1999). In this section the role of militarization in the formation of the nation-state will be examined.

The Emergence of the Nation-State

Xenophon (428-354 B.C.) who was a student of Socrates, led “The Ten Thousand”, i.e. a band of mercenaries fighting against the Persian emperor Artaxerxes in the year 401 B.C. During the reign of the Greek city-states, the use of mercenaries was the conventional way of conducting war. The Hellenians and the Macedonians relied on mercenaries and the Roman Empire was to a large extent established and expanded with the employment of mercenaries. Professional soldiers in medieval times were mainly mercenaries and mercenarism has been a respectable business through the ages. William the Bastard defeated Harold Godwinson in the battle of Hastings in 1066 with a mercenary army (Parker, 1995).

The empires of the past were expansions from initially more restricted power-bases and confined states. These states and the empires had territorial boundaries but not fixed borders, as the nation-states today. Nevertheless the deployment of military power was needed to create and maintain such state boundaries. Although military power and political power were not identical, most empires could deploy military power much further out than they could

maintain political power and administrative control. Political control tended to be stronger close to main roads and rivers, i.e. trade- and transportation routes. In the periphery, the boundaries between states and local systems of political rule could overlap. The overlapping power of polities and adjacent empires would shift and change over time, especially in the frontier regions (Held et al., 1999).

The major powers of medieval Europe, e.g. the Kingdom of France, the Germanic Empire, and the Principality of Poland, give a somewhat false picture of unity within the continent. Europe was fragmented and divided political territory where military power, i.e. war victors and conquerors, were far from being the head of clearly demarcated territories and peoples. Political power was more connected to the person holding power than the actual territory or any boundaries between territories (Held et al., 1999). In this context throughout the middle ages, the use of mercenaries was a major business. In the Thirty Years' War, fought between 1618 and 1648 ending with the Peace Treaties of Westphalia, Albrecht von Wallenstein twice employed armies of 25,000 men for the Holy Roman Empire in the years 1625 and 1631-2. Towards the end of the war Gustavus Adolphus king of Sweden led an army of 60,000 men of which only 18,000 were Swedes (Parker, 1995).

After the Thirty Years' War and the Treaty of Westphalia, Europe evolved from mosaic of polities into a 'society of states' based on a new concept of international law, i.e. the Westphalian model:

- The world consists of, and is divided into, sovereign territorial states which recognize no superior authority.
- The processes of law-making, the settlement of disputes and law enforcement are largely in the hands of individual states.
- International law is oriented to the establishment of minimal rules of coexistence; the creation of enduring relationships among states and peoples is an aim, but only to the extent that it allows state objectives to be met.

- Responsibility for cross-border wrongful acts is a ‘private matter’ concerning only those affected.
- All states are regarded as equal before the law; legal rules do not take account of asymmetries of power.
- Differences among states are often settled by force; the principle of effective power holds sway. Virtually no legal fetters exist to curb the resort of force; international legal standards afford minimal protection.
- The minimization of impediments to state freedom is the ‘collective priority’.

(Held et al., 1999, p. 37-8)

The Westphalian model depicts the development of the nation-state system; a world order based on the territorial sovereign states. Exact borders were gradually fixed and the absolute claims for monopoly over force and means of coercion were put forth by the sovereign.

The development of conscript armies and a ban on the citizenry fighting other nations wars were the natural prosecution of this process, considering the need for the citizenry to take on the responsibility for a standing army, protecting the fixed state borders. Every citizen became involved and the army became integrated into society (Eckellen, 2002). Still the market for violence remained active, with chartered companies being prominent in the 18th and 19th century. They were state-contracted commercial entities to which was assigned the control of force to protect trade routes and establish colonies (Singer, 2003).

Technological advancements in warfare have always been decisive in maintaining power and driving territorial and economic expansion. The European expansion and colonial conquests can be explained by Europe’s supremacy over the oceans and the capability of overseas deployment of force, i.e. military and naval power expanding the reach of European influence. This called for grater organization capabilities to operate on such a scale, strengthening the formation of the nation-state. Communication technologies such as the Morse code and the telegraph further strengthened the sovereign’s control of the periphery and of colonial

administrators. Advancements in transportation, such as the invention of the locomotive paved way for the shift from imperial to territorial control. Transnational forms of activity, organization and infrastructural control succeeded over direct military oppression. The nation-state was at the center of these changes towards a new international order being a political system distinct from both the ruler and the ruled, a legitimate impersonal power with territoriality and monopolistic control of the means of violence (Held et al., 1999).

The monopoly of violence maintained by the state during the past two centuries has been an exception rather than the rule. It was only in this brief period of human history that certain sovereign states, notably not all states, have been strong enough to maintain the monopoly of violence and thus secure their sovereignty. After the decolonization period in the mid 20th century many newly independent states were ill prepared to cope with the new reality, especially in relation to organized violence and control of force. During this time of turmoil the state and its adversaries resorted to the use of mercenaries. For example many of the newly independent states in Africa were very weak, and as a result, mercenary activity in Africa has been widespread since that time in relation to national security and also in relation to securing access to natural resources and their exploitation (Avant, 2005; Mandel, 2002; Singer, 2003). In relation to mercenary activities Singer (2003) points out that “Ukrainian mercenaries alone are rumored to have been active in fighting in Abkhazia, Algeria, Angola, Bosnia, Chechnya, Croatia, Dniester, Guinea, Kosovo, Liberia, Nagorno-Karabakh, Sierra Leone, Tajikistan, and Zaire” (p. 44).

For more than three centuries the nation-state has been at the center of the global political order. But in the new reign of globalization the role of the state has eroded. The end of the Cold War has changed the ways in which the world's power has been redistributed among the

states, the market and civil society (Cohen & K p  , 2005). Developments and technological advancement in the arms industry in the twentieth century have led to a shift, once again to the notion of quality rather than pure quantity. The growing complexity of maintaining a standing army, training, equipment and logistics have caused a gap between political aims and military needs (Eekellen, 2002).

The Rise of Privatization

After the collapse of the Soviet Union there were several important changes in the international arena instigating the privatization of security (Avant, 2005; Eekellen, 2002; Mandel, 2002; Singer, 2003). In most strong states due to the absence of immediate threats, defense funding, manpower and munitions have been downsized. The cutbacks in uniformed officers created a pool of military experts looking for a job. This happened at the same time as conflicts were rising and increased internal turmoil in many weak states called for the use of force, but in many instances neither the manpower nor the skills were available. The expansion of MNC's into these same states pushed for the use of PMC's for securing their operations.

Major cutbacks especially in the former Warsaw Pact states, resulted in the outward flux not only of skilled former officers, special forces agents and other military experts, but also of weaponry and sophisticated military equipment. Further more the breakdown of the bipolar system unleashed conflicts until then restrained by the two superpowers. Further the funds to pay for these engagements were limited partly because of cut-backs of the financial backing that the superpowers had been granting in the past. To hire readily available and well trained force for a fragment of the cost of developing and maintaining a standing army becomes auspicious. (Avant, 2005; Eekellen, 2002; Mandel, 2002; Singer, 2003).

There are plausible arguments for the greater efficiency of small specialized units rather than large standing armies, in fighting and winning the types of war most prevalent today i.e. civil conflicts. It is less a matter of applying massive force on a wide plane than applying intelligent force at strategically selected points. The deployment of MPC's seems to have, at least in the short run, certain advantages in fighting modern wars and controlling security (Mandel, 2002).

The expansion of PMC's in recent years holds hands with the current military build-up in the Persian Gulf area, principally in Iraq. There are several factors that drive this expansion:

- Downsizing of the military following the Gulf War;
- Growing reliance on contractors to support the latest weapons and provide lifetime support for the systems;
- U.S. Department of Defense (DOD) -sponsored move to outsource or privatize functions to improve efficiency and free up funds for sustainment and modernization programs;
- Increased operating tempos.

(Isenberg, 2006a, Micro military organizational factors section, para. 3)

The overall increase in the processes of privatization has led to the transfer of public responsibilities to the private sphere. The role of the nation-state as the provider of public goods has been diminishing because of increased reliance on the free market and decreased trust in public institutions (Cohen & Küpçü, 2005).

Economic globalization goes hand-in-hand with the growth within the PMI and the expansion of PMC's in three main aspects: the call for maximization of efficiency, reduced state control, and the increased willingness of MNC's to face certain risks in the surge for profit, i.e. the competitive nature of the global market drives MNC's to operate in increasingly more

dangerous places, e.g. in weak states, necessitating the use of PMC's. National autonomy is being eroded under the current global socio-economic trends, the authority of the nation-state is challenged by MNC's and new communications and transnational politics. In the era of globalization the nation-states' own ability to provide security is undermined. It has been argued that the structural adjustments programs inflicted by the World Bank and the International Monetary Fund on the developing world have the potential to reduce political stability and public security, thus further pressing for the privatization in security and expansion of PMC's (Mandel, 2002).

The oil and gas industry facilities are often in conflict tormented areas and often one of the main sources of contention, from Algeria to Azerbaijan. Mining corporation sites are also known to have instigated insurgencies in Congo, Sierra Leone and Angola. In Colombia rebels have attacked corporate pipelines and other oil industry facilities. After September 11 the same holds true in the Middle East and the Arab world. Many MNC's reap high profits from operations in the worlds most dangerous places including Iraq. In Angola, oil companies have spent close to 9% of all operational costs on military-type security while in Colombia MNC's have spent up to 6% in security related services (Singer, 2003).

Another growing trend is the use of PMC's in humanitarian operations both in connection with U.N. peace keeping and even more so with non-state actors (NSA) relief and aid projects. De-mining has been contracted out in almost every U.N. operation, police and logistic services have also been contracted within U.N. peace keeping operations. The NSA's are often very well organized and financed making them much better clients of the PMC's than many of the weak states in which they operate, and therefore a target market of the PMC's (Singer, 2003).

Mercenaries Now and Then: Individual vs. Corporate

Although mercenaries were rendered illegal practice by the Geneva Conventions there has always been a hidden market for this trade throughout the 20th century (Singer, 2003; Avant, 2005). Even though there is some resemblance between the mercenaries of earlier centuries and the illegal mercenaries of our days, they do not have much in common with the PMC's.

Peter Singer (2003) identifies six main features that distinguish PMC's from the conventional mercenary of our days, the first being the *organization*. The PMC's are organized as business units with a clear executive hierarchy and shareholders. They are organized along the lines of a corporate charter taking full advantage of the global marketplace. The conventional mercenary was operating on an individual level with little or no intra-organization.

The second feature is that *motives* are on a different level. Whereas the conventional mercenary was driven by personal gain, the PMC's are driven by business profit i.e. to maximize shareholders return. The PMC's are registered trade units and function on the marketplace overtly and are open for scrutiny as such. At the same time they can make full use of complex corporate financing and are typically in business for the long run.

The third feature is constituted by the benefits of an *open market*. PMC's are in competition on the open global market, and are accepted as legal entities. In other terms they are recognized within state law and operate within a recognized legal frame. As such they can operate in the open, run websites and advertise their services.

Providing *services* rather than goods is the fourth feature that sets the PMC's apart from the conventional mercenary. These firms offer wide varieties of military services from outside the

tactical sphere, such as transportation and logistics, to full blown combat services. The clientele is therefore also much broader and more diverse. The PMC's make business with those who can afford to pay for their services, whether state regimes or NSA, such as NGO's or other MNC's.

Recruitment is also much more efficient in these circumstances. PMC's can advertise openly both to sell their services and to recruit military personnel. Their organization makes it preferable to maintain databases covering the available employee pool, assigning certain missions to certain employees whose skills are best suited to meet the specific mission needs.

Finally, these corporations are very well *linked* to the world of finance through their customers and owners, both of whom can have a diverse form of ownership and connections to the broader corporate services and resources of the PMC's. Businesses themselves may expand their services and grow into the military trade, while some PMC's earn an extensive part of their revenue by researching and developing civilian technologies.

Despite existing professionalism, Gerald Schumacher (2006) warns of the fact that currently the demand for contractors exceeds the supply, which results in the deterioration of hiring standards. The market is flooded with relatively unskilled and inexperienced contractors fighting on the battlefield. Peters Singers (2004) voices the concern that the global military market is in effect unregulated and that there are no controls over who can work for these firms and who these firms can work for.

The Private Military Industry:

The Business of War

Warfare has always been tied to economic factors and there are scholars who assert that economic efficiency should determine whether public or private control should be either taken for granted or maintained. By this argument it is not evident that the state's monopoly of warfare should be upheld indefinitely. Although the government's control of the military was to the emerging nation-state an efficient response, this may no longer be the case, for today's strong states, whether we look at it domestically or internationally (Mandel, 2002). In this section, theories concerning the role of militarization within the economy will be introduced, different types of PMC's will be examined and also the scale of privatization in the realm of the military.

The Economy

The ideology of privatization has been on the rise in the post-Cold-War era. Thus responsibilities have increasingly been transferred from the state to private enterprises, from educating children and running prisons, to building and maintaining highways. Governments are losing control over many aspects of social life, that they had monopolized before, including telecommunications industry, transportation industry, education, and healthcare services. There have been strong voices pressing for deregulation of defense in all quarters, even from officials within the government military establishments themselves (Mandel, 2002).

There are three main theories in the history of the economic analyses of war. As described by Fanny Coulomb and Jacques Fontanel (2003), 'The Pacifying Economy', 'Relation between

Foreign Policy and Economic Policy Issues’, and ‘Capitalism and Militarism: the Question of social Relation’

The Pacifying Economy i.e. the idea of the economy as a factor for peace has two main approaches. The first one claims that the only foreign policy ought to be respect for free trade, since it will ultimately lead to prosperity for all nations and does not favor any one state over another, and it encourages peaceful international political relation. The second claims that, politics should progressively seek the ‘true’ laws governing the economy i.e. the integration of economy and politics. This political economic paradigm should encourage and strengthen the progress of peaceful societies. These ideas originated in the liberal tradition and have dominated the political and economic discourses since the fall of the Soviet Union.

The relation between foreign policy and economic policy issues is the second theory, in which the economy is perceived as an instrument of powers. This school examines power policies, whether military or economic and wars are understood as crucial steps in economic development. These ideas can be traced back to the mercantilists, most prominent in the 16th and 17th century. The mercantilists’ ideology can be summarized in the words of Jan Coen, Governor General of the Dutch East Indies Company “Trade can not be maintained without war, nor war without trade” (as cited in Singer, 2003, p. 19).

In recent times there have been assessments of economy as weapon. Contemporary economic literature in international relations has dealt extensively with commercial and statistical aspects of defense policies. And as Avant (2005) points out, the language and metaphor used commonly to describe the open market trends and actualities are military strategic vocabulary. These studies can be linked to the neo-mercantilist current which has been developing since

the 1980's, opposing liberal theory and the idea of globalization i.e. international actors are involved in intermeshing rather than interrelating (Coulomb & Fontanel, 2003).

Capitalism and militarism, the third theory in mention, is derived mainly from Marxist thought. Militarism has been identified by different scholars as the key to both the strength of the capitalist system and its fragility. There is a contradiction ingrained in the capitalist system, i.e. the driving force being profits, while the law of 'decreasing marginal returns' leads to progressive decrease of profits. This leads to a 'conquest' for profits and ever expanding imperial tendencies. The role of state military spending in the capitalist system is to boost profit margins affecting the whole economy. Theories state that increased military expenditures will lead to an increase in demand, profits and economic growth. A well known analysis by John Kenneth Galbraith from 1967 describes war as one pillar of the capitalist system, with other non-military functions, on the economy, politics, and the social sphere (Coulomb & Fontanel, 2003).

Robert W. McChesney (1999) is blunt when he talks about the global political trend for the last two decades of the 19th century. "Neoliberalism is the defining political economic paradigm of our time – it refers to the policies and processes whereby a relative handful of private interests are permitted to control as much as possible of social life in order to maximize their personal profit".

Noam Chomsky (1999), refers to the same period, the last two decades of the 20th century, and states that while public interests have grown and individual and personal rights have extended in the capitalist countries, mainly in the west, there has been a real war going on, the war to gain control over the public sphere. The individuals influence policy and take part in

democratic decision-making in the public sphere which has been truism since Aristotle. Each individual therefore exercises his personal freedom (private rights) in the public arena. This mutuality in the private and the public spheres has been developing alongside modern democracy. But in this war, the public sphere is being diminished and therefore personal influence and control over one's own reality as well. The corporations protecting the rights of the few have gained control over the public arena. Chomsky argues that the neoliberal doctrine has weakened people's power over their own life and undermined democracy.

Private Military Companies

It can be hard to identify a PMC, due to their diffused character and interlock with the civil industrial sphere. One could argue that Alcoa, the multinational aluminum giant which is currently building in Iceland one of the most advanced aluminum plants in the world could be classified as a PMC. According to the company's web site (Alcoa, 2007), "Through an unmatched combination of defense and commercial engineering, Alcoa delivers multi-product, lightweight and cost-effective solutions for programs ranging from the F35 Joint Strike Fighter to Armored Tactical and Fighting Vehicles."

The PMC's are companies that not only supply a good but a service. These companies are performing under extreme conditions in war-like situations i.e. in Iraq. Today even U.S government officials admit that Iraq is in state of civil war. As stated by James D. Fearon (2007), by numerous definitions of 'civil war', it started in 2004 in Iraq. The PMC's that provide security are not merely protecting and securing certain areas, buildings or prominent people as might be understood, for PMC's to perform their duties to protect and secure often means the exchange of firepower or even to take part in full-blown mortal combat.

Accordingly Singer (2003) divides the firms into three types depending on the services provided and the place within the battle space.

- *The Military Provider Firms*, those in the actual area of operations, that is, the tactical battlefield
- *The Military Consultants Firms*, those in the theater of war
- *The Military Support Firms*, those PMC's that operate within the general theater

Avant, 2005; Mandel, 2002; Singer, 2003).

Military Provider Firms are identified as those focusing on the tactical environment in the forefront of the battle space thus engaging in actual fighting. This is the most controversial sector of the private military industry and for that reason most of the firms actually performing these types of services are secretive about it and even deny it. These firms tend to attract the most negative attention and run the highest risk of external regulation that might damage their business. In this sector, secrecy reaches its peak and often it is hard to identify specific firms operating in this sector. But as long as there is demand for military provider services, PMC's will take such roles (Singer, 2003).

Military Consultants Firms provide military advice and training services. Although their employees may not partake directly in armed combats, their knowledge and expertise in training and reshaping their client's armed force is of utmost importance. MPRI one of the most prominent firms in the industry which earned its reputation in former Yugoslavia has thousands of ex-officers employed including four-star generals and half of the officers in their database reportedly have combat experience and/ or PhD's (Singer, 2003, p.120). Their experience and expertise can change the training and employment of force to maximize results and provide a powerful military advantage. But although not a part of the deal, the

client may become increasingly dependent on the consultant firm and lose oversight of its own force (Singer, 2003).

Military Support Firms provide supplementary military services. These firms specialize in secondary tasks that are not of the overall core mission of the client, while client's forces can then focus on their primary business of fighting. This sector is the largest of the three in terms of both size, and revenue and the most diversified. Surprisingly, it is the one sector least explored in the relation to military privatization. These firms are often left out of the analysis of the privatized military industry, since these firms are left to the least of controversy. The military support firms provide non-lethal aid and assistance such as transportation, supply, logistics, technical support and intelligence. While executing these non-combat duties, employees are often exposed to combat threats. Fulfilling functional needs that are critical to the overall combat operations of the client, these firms are of no less importance to the client's military than any other of the three sectors, logistical capabilities are one of the major factors that determine the size, scope, pace, and effectiveness of military operations (Singer, 2003).

There are some obstacles in defining the firms depending on the services because the firms sign different contracts that require them to fulfill different tasks which can be categorized in more than one sector. Deborah D. Avant (2005) states that these definitions do not uphold in complicated situations such as in counter-insurgency, anti-terrorism, and other special operations. Therefore she stresses the point of focusing on different types of contracts rather than different types of firms as the PMC's can and will adapt quickly to client demands and needs concerning specific contracts. A PMC with main operation generally defined as certain type can sign contracts falling on either side of the definition, e.g. a military consultant firm

may have contracted obligations to perform jobs typically defined as providing, rather than supporting military needs. The three main tactical services provided by the PMC's in Iraq are protecting key installations and facilities, protecting key leaders and individuals, e.g. former U.S. Ambassador Paul Bremer, head of the Coalition Provisional Authority (CPA), and convoy escort. All these activities are known to have resulted in the exchange of fire power and combat situations. The Coalition Army, the CPA and everybody involved in the occupation are under attack (Singer, 2004).

As stated above, the general trend within the modern capitalistic society has been privatization (Chomsky, 1999). All kinds of goods and services which used to be provided by the public authorities are now provided by the private sphere or non-governmental actors, from schooling to nuclear reactors. Military goods have long been supplied by civilian companies, since many of the military needs are just the same as those of the general public, such as food or laundry services.

Recently though trends in privatization have changed the landscape of our societies. In the U.S., for example, 'industry' is commonly used in relation to many services that used to be provided solely by the state, thus implying their privatization. It sounds quite normal in this day and age to speak of the 'Health Care Industry', 'The Correctional Industry' and now 'The Private Security Industry', in which the PMC's operate and provide goods and services traditionally provided by the government alone.

The Scale of Privatization

The rising share of the private contracting and outsourcing by the U.S. Department of Defense (DOD) was as much of a fact in the 1980's defense buildup as in the 1990's downsizing. It became subject to further growth given the commitment of the Bush administration to further privatization (Markusen, 2003).

William D Hartung and Frida Berrigan (2007) report the proposed U.S. military spending for the fiscal year (FY) 2008 to be \$ 647 billion, the all-time highest level of military spending since World War II. Military spending has more than doubled since President Bush took office in the year 2001. This overall growth in military spending has also resulted in similar or comparable growth in prime contracts. The growth of overall Pentagon contracting from the FY 2001 to FY 2006 is up from \$144 billion to 294 billion, an increase of 103%.

As Donald's H. Rumsfeld (2005), former secretary of defense reports to the U.S. president and the congress on national defense strategy, the main force-management challenges are, to maintain quality, shape the force of the future and develop and sustain the total force readiness, with reasonable costs. All this is meant to imply that further privatization is required. In the changing tactical and operational environments specifically in association with force protection, intelligence, surveillance, and reconnaissance, also for the build-up and sustainment of expeditionary operations, military personnel have been realigned into essential fields of operation, more civilians and contractors have been hired "to free military members to focus on military-specific duties"(p. 57). This is also a response to the increasing costs of recruitment and training new military personnel. At any given time there are thousands of soldiers in training who are not ready for war and can not be deployed in many of the situations where they are most needed. Additionally there are significant costs in overhead

expenses for inapplicable force. According to Rumsfeld these measures are to change and increase the readiness of the total force, to shift its focus and resources “from bureaucracy to battlefield” (p.62).

According to the United States General Accounting Office (GAO) (2003) report on contractors in military operations under the Department DOD, the U.S. military has used contractors on an increasing level in every major military operation since the 1991 Gulf War, including peace keeping missions and humanitarian assistance missions in Somalia, Haiti, Bosnia, Kosovo and Afghanistan. The significant increase in the use of contractors under the DOD are identified as a result of, successive reductions in size of the military, combined with an increase in the number of military operations and missions undertaken, not to mention increasingly sophisticated weapon systems. However the DOD does not know the totality of the support being provided by contractors to deployed forces, there is no oversight of the scale of the contracts. With the unstable situation in the war in Iraq and with changing strategies and in tactical operations, many contracts are expanded or re-prioritized, many contracts where signed before they were fully drafted due to the uncertainties in the beginning of the invasion. Also these contracts do not specify a fixed number of personnel, rather the job that needs to be done. Companies with different responsibilities may shift the focus from day to day, and position different number of employers in a given operation. The PMC has different priorities and agendas than does the DOD.

According to the GAO report contractors are supporting deployed forces in; the Balkans in Europe; Iraq, Saudi Arabia, Kuwait, Qatar, Oman and Bahrain in the Middle East and the Arabic peninsula; Uzbekistan, Afghanistan and the Philippines in Central- and South-Eastern Asia. These contractors provide various types of services to deployed forces including

“communication services, interpreters, base operations services, weapons systems maintenance, gate and perimeter security, intelligence analysis, and oversight over other contractors” (GAO, 2003).

In a corresponding report of the year 2006, the PMC's are said to provide deployed U.S. forces with “communication services; interpreters who accompany military patrols; base operations support (e.g., food and housing); weapons systems maintenance; intelligence analysis; and a variety of other support. Many of these contractors live and work side by side with their military counterparts and share many of the same risks and hardships”. In the same report the U.S. army alone, not counting navy or air force contractors, estimates that currently there are almost 60,000 PMC's employees supporting deployed forces in South-West Asia, compared to an estimate of 9200 PMC's employees in the 1991 Gulf War (GAO, 2006).

Private military activities are often the case, behind the news of world conflict. PMC's are known to have operated in over 50 states on every continent except for Antarctica. At the same time the world's dominant military powers have become ever more reliant on their services (Singer, 2004). More and more scholars and military analysts doubt that the U.S could act autonomously in war without the multitude of services provided by PMC's (Avant, 2005; Cohen & Küpçü, 2005; Mandel, 2002; Singer, 2003). It should be noted that the phenomenon of privatization is far from being isolated to the U.S., rather it is a global industry on the rise (Singer, 2004). Avant (2005) identifies more than a 100 PMC's from all continents, operating between 1990 and 2004, in military advice and training, operational support, and logistic support, excluding companies engaged in site and personal security (p. 10-15).

It is estimated that 30 % of essential security services in the Middle East is handled by armed civilians, guarding reconstruction projects, escorting convoys through hostile areas, defending strategic location and individuals including public officials, for instance, the current Afghan president Hamid Karzai is protected by private contractors (Cohen & Küpçü, 2005). There are about 20,000 employees from 60 different PMC's in Iraq to perform security tasks and another 50-70,000 unarmed civilians are working in different military related services from laundry washing to construction work (Singer, 2003). The 20.000 unregulated military contractors currently working in Iraq are equivalent to an entire U.S. army division (Cohen & Küpçü, 2005). In the Gulf War in 1990-91 the ratio between military personnel and private contractors was 50 to 1. There are conflicting numbers on how many individual private military contractors are currently working in Iraq, yet they range between 15 to 1 (Schumacher, 2006), and 7 to 1 (Cohen & Küpçü, 2005). There are figures as high as 700,000 contractors working different types of jobs for the Pentagon in Iraq, supporting the military. More than 60 PMC's are situated in Iraq, these companies all have web pages with accessible information on the services they offer, e.g. risk and threat assessment, maritime security, military and police training, training the media to cope in war-like situations, personal bodyguards, securing oil fields, escorting convoys, and key point security, to location, identification, removal, disposal, and avoidance of unexploded munitions (Schumacher, 2006).

The significant growth in the industry over the last decade is mirrored by the creation of the *International Peace Operations Association* (IPOA) in the year 2001 and the *British Association of Private Security Companies* (BAPSC) in the year 2006. These associations publish web pages with information and codes of conduct that ought to serve as the mechanism for PMC's self-regulation. However, it has been pointed out that there are serious

problems in other economic sectors concerning the effectiveness of such codes of conduct, as they often come second to profit and corporate goals (Dearden & Mathieu, 2006).

Nevertheless these associations confirm what has been noted on the PMC's services rendered in conflict zones i.e. these firms do take part in active security services in hostile environments (IPOA, no date; Bearpark & Schulz,), being like states armies.

The IPOA did a survey within the industry in the year 2006 and identified 103 companies worldwide as its target population. Only 14 companies completed the survey, with a response rate of just 13.6%. Still, their response reveals important facts about the industry, not least their secretive nature. For instance, of these 14 companies, 8 had headquarters in the U.S, 4 within the E.U., 1 in South Africa and 1 in the Middle East. Less than half of these 14 companies had central office staff comprising fewer than 25 employees, with 1 company headquarters workforce exceeding 100 employees. Several of these companies existed before the September 11 attacks, yet 6 had been founded after the attacks. When it comes to IPOA membership, 9 companies were members and 5 non-members (IPOA, 2006).

All the companies that participated in the survey are engaged in private security, defined as "Protective security for personnel, infrastructure, and assets, travel and transport security assistance (aviation/maritime/convoy security), personal security/executive protection, provision of trained guards and specialized security equipment (i.e. armored transportation, body armor),close/force protection" (IPOA, 2006, p. 9), 70% of their contracts were in private security, the other 30% were in other categories including, training and security sector reform, information analysis, logistics and explosive ordinance disposal. All had operations in Iraq though services were rendered globally: in the Australia-Pacific region, the North-, South- and Central-America, Asia, Europe, in the Middle – East, and Africa, or 47 states in all

continents (except Antarctica). All had private company contracts, all but 1 had governmental contracts, and half worked for NGO's and individuals. These anonymous companies employed, according to the survey, 18,679 people all around the world and the average annual gross revenue rose from just under \$60 million in 2001 to just under a \$100 million in 2004 (IPOA, 2006).

According to private industry projections the revenues from the global international security market are expected to rise from \$55.6 billion in 1990 to \$202 billion in 2010. Indeed already throughout the 1990's, private security companies with publicly traded stocks grew at an average pace twice that of the Dow Jones Industrial Average (Schumacher, 2006).

All this being said, it is evident that Hobsbawm's predictions were right. The extent to which the private enterprise in war has grown, is not only substantial in relation to the increase in military spending, but also in the relation to increased ratio between military personnel and PMC's employees engaged in actual areas of military operation. But does it imply a fundamental change in warfare?

Implications of Privatization:

Three troublesome questions

The main issues resulting from the increased use of PMC's is the lack of oversight and the fact that the international market for private security is to a large extent unregulated. On top of that is the nature of their services and delivered goods, which in many cases lie in a grey area; not easily defined according to existing legal frames. In this section the complexity of the PMI and the conditions in which the PMC operates, will be assessed. Further the changes in the regulatory framework that has taken place by the processes of globalization will be

examined. Three main questions arise with the increased use of PMC's: the question of democracy, the question of control of armed forces and the question of legitimacy.

The nature and the activities of PMC's are extremely complex and often difficult to identify, for example Deborah D. Avant (2005) defines as 'private' all non-governmental actors or non-state actor (NSA). That includes NGO's and commercial entities, but also independent militia and even organized crime. She identifies the different actors and how they are related by characterizing them by the way they are financed and by the way their services are delivered. Thus Avant identifies five different actors: *National*, *Foreign national*, *Multi-national*, *Private (for-profit)* and *Private (not-for-profit)*, and up to twenty different relationships and organization of violence. For instance Avant describes relationships from *National* financing and delivery to *Private (for-profit)* financing and delivery, and even *Private (for-profit)* financing and *National* delivery e.g. Shell financing Nigerian state forces.

The variety of arrangements for allocating violence.

	National financing	Foreign national financing	Multi-national financing	Private financing (for-profit)	Private (not-for-profit) financing
National delivery	1. - US in WWII	2. - German troops in the American Revolution	3. - The first Gulf War	4. - Shell financing Nigerian forces	5. - WWF financing park guards in Democratic Republic of Congo
Foreign national delivery	6. - German troops in the American Revolution	7. - Korean troops fighting for the US in Vietnam	8. - the First Gulf War	9. - Branch group contributing to Nigerian forces in Sierra Leone	10.
Multi – national delivery	11. - NATO in Kosovo	12. - Muslim states' contribution to western military aid in Bosnia	13. - UN Peace keeping	14.	15.
Private (for-profit delivery)	16. - MPRI's provision of ROTC trainers to the US	17. - MPRI's work for Croatia	18. - MPRI's work for Bosnia	19. - DSL working for Lonhro in Mozambique	20. - DSL working for ICRC around the world
Private (not-for-profit) delivery	21.	22.	23. - "Green cross"	24. - BP financing Colombian paramilitaries	25. - Wildaid in Asia

(Avant, 2003, p. 25)

As can be seen in the table above, Avant identifies 20 different arrangements in which organized violence is allocated. The national and international dimensions, have historically been played out in 9 different ways, where the nation-state hypothetically holds full control of force (the shaded areas in the table above), but with private actors involved it is played out in 11 different ways. By this analysis it can be seen that privatization means increased complexity. The nation-state is involved in most of the cases in which force is being deployed and has different arrangements with private enterprise, whether only delivering, only financing or both delivering and financing military operations. Therefore, even though the state is involved in most-case scenarios it holds limited control and oversight of the force that is being deployed. Even in multi-national operations each and individual state has limited control and oversight.

Avant (2005) is concerned with three main issues of control: *political control* (i.e. who is in charge of decision making), *functional control* (i.e. the capabilities of the armed forces), and *social control* (i.e. whether international laws and values upheld). These three issues regarding the control of force apply differently depending on the different relationships and organization of violence (see table above) e.g. “When states contract for private delivery of security services, when states regulate security services export, and when non-state actors finance security services” (Avant, 2005, p. 57-77).

These 3 main issues identified by Avant, rising from increased complexity of the financing and delivery of force, coincide with the three questions put forth: the question of democracy, the question of control of armed forces and the question of legitimacy. All this is stemming from the new reality of warfare, where the nation-state seems to be giving up one of its main characteristics, i.e. the monopoly of violence. The erosion of state-sovereignty deriving from

globalization is a fact. In this context one of the most significant changes that have been taking place in the international arena is the emergence of the non-state actor (NSA), which is gaining status within and across the nation-state system. These new actors are diversified players in the international theater, either taking advantage of and profiting from the changed reality of warfare, or monitoring and denouncing human rights violations in conflict zones, pressing for reform or regulatory systems that could apply for the unregulated market for force.

In the era of globalization, the political- and social development of the ever-increasing influence and power of NSA is more and more evident in the international arena. There are numerous incidents that point out the level at which this powerful new player can have influence on, and change the foreign policy of, the state itself. U.S. firms often go beyond the influence of American embassies on societies in which they operate, and debt rating agencies can have enormous effects on the fiscal policy of different states. Also, drug cartels and terrorists have a direct effect on public policies. The state might set the over-all rules and regulation (or deregulation), but it does not necessarily have to play the game. In the awakening of the war in Iraq, there was already a plan for removal of thousands of deadly landmines. This plan was not made within the Pentagon, but by a private contractor hoping for a lucrative contract. Most intriguing example of NSA influence is the case of the International Campaign to Ban Landmines (ICBL), which resulted in wide support for a treaty banning landmines, and in 1999 it became international law after the 40th state had formally ratified the Mine Ban Treaty. What the U.N. had struggled for decades to achieve, ICBL managed in just six years (Cohen & Küpçü, 2005). As of March 2007, 151 states are parties to the convention, 41 states are yet to sign, including the U.S. (ICBL, no date).

The state has become more and more dependent on the increasing role of the NSA within the international system. On an increasing level the NSA's are setting the global agenda, prioritizing global threats and providing solutions to modern challenges, such as terrorism, global warming, environmental degradation, the AIDS crisis and corruption, to mention a few. In reality the changing role of the NSA is probably due to the fact that even the most powerful states lack the resources necessary to address these global threats. But what is most striking with this trend is that while some cooperate well with the state, others tend to operate by their own rules. These actors are set out mainly to defend their own interests, which sometimes contradicts the interests of the state or government (Cohen & Küpçü, 2005).

The Question of Democracy: Who Makes the Decisions?

Political control is always altered when PMC's are deployed. Indeed the involvement of PMC's may lead to a total redistribution of power and even a regime change. For example Avant (2005) claims that the involvement of PMC's in Sierra Leone in the 1990's is such an instance, for PMC's caused avoidable conflicts and huge political changes (*contra Singer*). As the hiring of PMC's is usually in the hands of the executive power, representative bodies have often little to say about it and no means to influence the decision-making process: a shift of power is evident within the political sphere. Internationally the large scale of privatization in the U.S. alone and the readily available private force, means that there is no need to convince the broader international community of the importance of a military intervention, and could lessen the U.S. willingness for international cooperation and multi-lateral support. If powerful states can buy force to pursue foreign policy plans that lack broad international support and can change or undermine the UN and other international institutions, thus increasing the likelihood of conflict (Avant, 2005).

“Our human rights, the rule of law, democracy - the more these are priced, the less they are valued. The more we allow cost to be the only or primary consideration in assessing the imperatives of public policy, the less will be the protection offered to those who may need it the most but can afford it the least” (Harker 1998, Privatizing Security section, para. 5).

The key distinction between public and private spheres is whether the agent is working under contract, subject to profit-making discipline, or if an agent is working within the public sector therefore subject to direct democratic and civil-service accountability systems. The current thrust for privatization is motivated largely by commercial gains of private entities rather than real gains to the nation and the citizenry. The outcome of privatization is that deployment of force shifts from under democratic accountability systems to a profit-making discipline (Markusen, 2003).

A corporation is obliged only to serve, and is ultimately liable only to its shareholders. Also, a corporation is granted the full rights of a natural person, like the individual citizen, but is exempt from many of the liabilities and responsibilities of citizenship (Korten, 2001). This in itself raises the question of the public benefits derived from outsourcing military services. As Singer (2003) points out PMC's have a tendency to make their clientele dependent on their services, be it another corporation, a private entity, or the government of a state (p. 96). This implies that their goal is to a certain extent not to serve their clients, but rather the self-preservation of the company itself. Only liable to the corporate shareholder, the PMC's do not have to answer to the parliament or other democratic institutions. In short the PMC is more likely to respond to market incentives than democratic control or public policy.

It could be argued that privatizing security and military affairs is a way to pass beyond democratic control (Avant, 2000; Cohen & Küpçü, 2005; Isenberg, 2006a; Singer, 2000). States that use PMC's may make the execution of force much easier by avoiding public debate, side-stepping democratic control, and undermining the same processes. By using PMC's it becomes unnecessary to involve, both the general public and any representative national assembly in foreign policy. In other words sending military troops to foreign countries in a different part of the world does not have to be debated in parliament. Yet public disclosure and debate of the use of force in the international arena is fundamental to democracy, regarding both public participation and public concerns. Privatization may thus be not only or even mainly about saving money, but rather avoiding tough political issues, such as military needs and the human consequences of war. The increased use of PMC's seems to be driven by political cost-savings as much as financial cost-savings (Singer, 2004; Avant, 2005).

One of the core principles of the Western system of government is the civil supremacy over the military. The military should merely implement policy but not make policy; in other words, the army should only be concerned about the means to achieve the end set by the state. Indeed, since means and ends are relative; i.e. ends in one aspect can be means in another, it is for the civilian leadership to decide where to draw the line between ends and means (Kemp & Hudlin, 1992). Thus one of the main problems with outsourcing security becomes the lack of oversight and unclear final outcome of privately executed military operations. This also affects the outcome and oversight of national forces operating alongside the PMC, i.e. the means and the ends of a contract are often far from clear cut, the PMC has a potential to become a 'wild-card' in the 'war-game'. Hence it is therefore hard to say that the civil supremacy over the military is actually the case. The mission of the PMC, which actually

holds military position and effective power of coercion, are often, at least partly, decided within the corporate office, rather than within the national assembly. And PMC's objectives as contractors tend to be different from the customer's and skewed by, for instance, the profit motive. Therefore questions arise on whether civil supremacy can be upheld in the current global market for force.

In reality, there is a link between the PMC and the MNC operating in dangerous areas and in conflict zones. These MNC's often hire another for security purposes, in exchange for future concessions in a weak state, where the government can not afford the cost of maintaining security. It is important to be aware of that the PMC's are themselves MNC's. These corporations, recognizing that the governments in the most desperate need for their services are often those that can least afford it, are known to ask for mining concessions or oil contracts, rather than cash payments, and have also a clear incentive for maintaining the state weak as they found it. There is widespread agreement among scholars in the field of security studies that such liaisons are detrimental to the interests of both governments and the citizenry but can prove lucrative business for the multinationals. MNC's investing in weak states are often the main source for much needed revenue, thus diminishing the state's need for popular support and counteract democratization (Avant, 2005). Again the PMC's as part of MNC's operations are much more responsive to market incentives than governmental priorities (Mandel, 2002). In addition Isenberg (2006a) has pointed out that many of the contracts made between governments and PMC's are so called cost-plus contracts, e.g. where contractors actually get paid for all costs, plus negotiated percentage on top. That is to say, there is an incentive to keep costs high to increase the total profits negotiated before hand.

The Question of Control: Who Controls Whom?

In the matter of *functional control*, strong states using PMC's might enhance their control of military forces in particular to begin with, weak states might gain functional advantages but there is a stronger tendency for them to get dependent on the MPC as a provider. The benefits from the use of PMC's with U.S. forces have granted some functional advantages, their use has for instance been incorporated into the U.S defense strategy (Rumsfeld, 2005), But there are serious issues in regards to of efficiency and effectiveness that will be discussed in the following pages. The U.S. may gain increased flexibility by outsourcing military operations but it is also likely that it will result in functional losses (Avant, 2005, p. 132).

The loss of control also lies within the practical sphere of military operations. The PMC's are not under military discipline and can choose to withdraw or end an operation if the risks are too high. According to Singer,(2004) during a couple of occasions in the current war in Iraq, the U.S. forces faced the situation of many firms delaying, suspending, or terminating operations because of insecure conditions, e.g. increases in insurgency and kidnappings of contractors. Additionally, if the military wanted to recover some of the responsibilities that have been outsourced, military personnel may neither have the basic skills nor the equipment needed to perform those tasks. The real danger is however whether a contractor could usurp power, like Singer puts it "Hired guns may serve a client's wishes today, but force the client to honor their wishes tomorrow" (Singer, 2003, p. 164). Singer further raises the questions of how changes in the market could affect the control of force e.g. bankruptcies, mergers, or company takeovers, presumably by identities opposing certain operations. Is it probable that a battle, a fight, a mission or a war could be lost in the boardroom rather than on the battlefield?

In the GAO report on military operations from the year 2003 or before the invasion of Iraq, neither DOD nor the U.S. army services had identified those PMC's that provide mission essential services or come up with detailed backup plan to ensure that essential contractor-provided services would not be discontinued if the contractors, for any reason, did not follow through on a signed contract. Further, there were no policies on the use of contractors to support deployed forces with the DOD and no clear understanding of the governments' responsibility towards contractors in the event of hostilities. This lack of proper planning has been problematic and hindered effective management of contractors, as commanders have often had several PMC's at their location with different responsibilities and obligations towards the army units deployed. Further, commanders have had limited oversight e.g. over the extent and types of services being provided by contractors. This has made it very difficult for commanders to realize just how much they are reliant on the services rendered by the PMC's to perform their mission and how to respond to contractor failure if and when it has occurred (GAO, 2003).

The GAO report on military operation from December 2006, titled "High-Level DOD Action Needed to Address Long-standing Problems with Management and Oversight of Contractors Supporting Deployed Forces", reports an increased use of PMC' in military operations as well as their growing complexity and scale. The title of the report tells of expanding difficulties in oversight and management since the last report on the same matter published in 2003 (and cited here above). It is emphasized in the 2006 report that the DOD's reliance on PMC's continues to grow, as they did before the release of the 2003 report, while control over ever increasing numbers of PMC's on deployed locations continues to be problematic (GAO, 2006).

As noted in the previous section, the state dependency upon the use of PMC's is growing (Avant, 2005; Cohen & Küpçü, 2005; Mandel, 2002; Singer, 2003). The reliance of the state on these companies is actually growing much faster than the state's ability to monitor them (GAO, 2006). Steven Schooner⁶ (2005) puts it bluntly in an interview in *Frontline*, "The United States military can no longer fight effectively without contractors on the battlefield".

Peter Singer (2003) claims that if it were not for the existence of mercenaries, in certain instances, (e.g. the Balkan wars and the civil war in Sierra Leone in the 1990's), fighting, hostility and skirmish would have been extended and human suffering prolonged. He claims that the mercenary's involvement has resulted in outcomes regarded as acceptable by the international community. In the Balkans, for example, humanitarian crises were avoided when, with the help of mercenaries the Croats were able to fight off the Serbian forces led by Slobodan Milosevic, who was later indicted by the UN's International Criminal Tribunal for the Former Yugoslavia for crimes against humanity. In Sierra Leone, free elections and a civilian-led democracy followed the resolution of a bloody civil war, which was quenched with the assistance of mercenary troops.

Also the PMC's are known to have rendered their services to as disparate clientele as sovereign states, aid agencies, drug cartels (Markusen, 2003) and terrorist groups, including two Al-Qaeda-linked groups (Singer, 2004). In reality, Al-Qaeda's success can also be explained by the same developments underlying the rise of the privatization in the security industry, i.e. the globalization of the world's economy and the technological advancements in areas of communication and transportation (Cohen & Küpçü, 2005). The imminent

⁶Steven Schooner is an expert on military contracting and a professor at The George Washington University Law School.

controversy on the legal status of the PMC is the fact that although, by the benefits of deregulations and the power of corporate charters, they operate as legal businesses on the global market, there are serious complexities concerning definitions of their practices which weakens the laws that should regulate their practices.

The Question of Legitimacy: What Laws Apply?

The inability of the system in place to implement policy without the use of coercion, whether public or private, can indicate policy failure and a lack of support for a regime or for the civil norms. It actually implies the failure of authority structures to attain law and order without the use of coercion (Mandel, 2002).

On the issue of *social control* the influence of the use of PMC's will be mostly on the weak states, as the private contractors are most often former military personnel socialized in international values, bringing with them societal norms and values. On the other hand when the demand for experienced military personnel exceeds the supply as seems to be happening currently in Iraq, some of the PMC's employees may have questionable backgrounds (Schumacher, 2006; Avant, 2005). Also, in the Balkans, the Croatian armed forces, trained by U.S. PMC are believed to have taken part in ethnic cleansing campaigns, which does not point to increased attention to international values and respect for international law (Avant, 2005, p. 110).

Many of these firms operate in a gray zone, without parliamentary oversight and official military codes of conduct. These firms are in many aspects outside the regulatory systems of the home country and of the international community, often operating in weak states (e.g. Congo, Sierra Leone, Angola, Colombia) where the accountability before the law is in some

cases less than none (Cohen & Küpçü, 2005). In Amnesty's International 2006 Annual Report it is stated that "US policies pursued in the name of security undermined human rights both within the USA and in many countries around the world. Hypocrisy and a disregard for basic human rights and international legal obligations continued to mark many privatized military operations, including the USA's 'War on Terror'". The same report states that U.S. and other military forces have used excessive coercion, resulting in the death of innocent civilians, with impunity. The so-called 'War on Terror' is in fact of major concern in relation to human rights violations globally, according to Amnesty International (Amnesty, 2006).

On his part Peter Singer (2004) has noted that of more than 20.000 privately contracted personnel in Iraq who are under arms, not one of them has been prosecuted or punished for a crime, unlike dozens of U.S. soldiers that have. In comparison, the similar sized town of Westport, Connecticut, a town with per-capita income of over \$70,000 a year, has a crime rate of above 28 per 1000 citizens, either these 20,000 men and women contracted in Iraq are the ideal citizens or there are serious flaws in the system supposed to govern them (Singer, 2005 p.13).

In effect the PMC's personnel have had total immunity from Iraqi laws as explicitly stated in the CPA order no. 17 (CPA, 2004, section 2, p. 4). Enough accusations have since then been put forth to press for clarification on who should then actually have jurisdiction over PMC's and by what law should they be prosecuted if need be (Isenberg, 2006a). In fact the PMC's working in Iraq under the CPA have had to work under three levels of legal authority: international law, PMC's home state law and Iraqi law as amended by the CPA. Since January 2005, all authority has been in the hands of the elected government of Iraq which holds sovereignty, at least *de jure*. This means that before the full sovereignty of the Iraqi

courts was established in June 2004, the Iraqi courts did not have jurisdiction to prosecute PMC personnel (Isenberg, 2006b).

International law that could be applicable to PMC's was developed with mercenaries in mind. For the lack of a better term (PMC's object to the term) and legal mechanisms to address the industry, the existing legal framework must be applied. There are several legal instruments within international law referring to mercenaries. The sources of this international law being treaties, customary international law and *jus cogens*, which could be brought before the *International Court of Justice* (ICJ), *International Criminal Court* (ICC) (Which the U.S is not a party to), the *European court of Justice* and the *European Court of Human Rights* (Isenberg, 2006a).

- *The Hague Convention No. V* on respecting the rights and duties of neutral powers and persons in the case of War on land of 1907. Art 4: neutral powers are prohibited from forming mercenary armies or allowing recruitment of mercenaries on their territory.
- *The 1949 Geneva Convention* relative to the treatment of prisoners of war (POW convention). It is believed to have been intended to confer POW status to mercenaries.
- *The UN charter*. Art 2(4) all states must "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state" thus reinforcement of sovereignty.
- *UN resolution 2131* "no state has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other states"
- *UN resolution 2465* specifically addresses mercenaries "using mercenaries against movements for national liberation and independence is punishable as a criminal act and that the mercenaries themselves are outlaws
- *UN resolution 2625* "states have a duty to refrain from organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into territory of another state"
- *UN resolution 3130* The use of mercenaries by colonial or "racist regimes" is a criminal act and mercenaries are punishable as criminals.

- *Additional protocol to the Geneva Convention of 12th August 1949* Art 47 it deprives mercenaries of POW status.
- *Regional initiatives in Africa:*
 - International Commission of Inquiry on Mercenaries
 - Convention for the elimination of mercenarism in Africa
- *UN Mercenary Convention* (1989) International convention against the recruitment, use, financing and training of mercenaries.
- *Rome Statue of the ICC* (2002). Defines aggression, includes mercenarism as an act of aggression.

(Isenberg, 2006a)

Singer (2003; 2004) argues that the PMC's do not fit the definition of 'mercenaries' and are therefore undefined under international law, hence falling back on the state level. As in regards to the home state jurisdiction of the contractor, most of the world governments don't have applicable laws under which PMC's operate. Further, it would be hard to conduct criminal investigations or conserve any evidence of a crime, nor would it be easy to present them to courts thousands of miles away.

Isenberg (2006a) agrees with Singer (2003; 2004), that the best legal option to deal with PMC's, since their status under international law is at best ambiguous, would be under national or state law. Although, within the current situation, the national regulations differ in many aspects, e.g. in quality and effectiveness, also, in many cases they are likely to be non-existent. In addition there are in many cases large legal grey areas due to the complexity of the market and, the different relationships of financing and delivery of the force. Civil suits have been brought against contractors in the past in the U.S. but have failed. Also in the U.S. there is a legal doctrine known as the 'government contractor' defense, which exempts contractors from liability when operating in accordance with government specifications. U.S. army lawyers have determined that they do not have jurisdiction over the contractors involved

with the human rights violations in Abu Ghraib and left it up to the PMC's themselves to discipline their staff. In fact, if these incidents are deemed part of U.S. government operations, it would be difficult to condemn the contractors involved.

In addition, in the case of Iraqi laws or host-state laws, there are numerous complications within failed state zones and, in the case of Iraq, the coalition regulations explicitly stated that contractors did not fall under the local authority. Local trials are likely to fail in many of the weak states, where the PMC's typically operate, as institutions and law enforcement are often dysfunctional.

Conclusion

Privatization has become the foreground to the world we live in. Different tasks and responsibilities that have historically developed alongside the formation of the nation-state and been in the hands of the public are now catered to private firms, the main argument being that this will guarantee efficiency. What is not being said, however, is that efficiency is being pursued at the expense of democracy. Moreover efficiency itself is far from evident in privatized warfare, as discussed in this thesis. There is a tacit assumption, derived from Adams Smith's free market ideology, i.e. the myth of the *pacifying economy*, which seems to be the background to our lives. In this assessment it seems more like the state of the world today looks much closer to the paradigm of the *relation between foreign policy and economic policy*, i.e. war being crucial to economic development. For example war has devastated Iraq, the country where the most blatant case of privatized war can be observed today. The costs related to this war are soaring for the general public, both in Iraq, where too many people have lost everything, even hope, and in the U.S., where public funds are used for military build-up and operations abroad, rather than for social policies at home. Yet it is a booming

business for the PMC's involved and huge amounts of money are transferred from the public to private enterprise.

It is evident that the share of private contracting and outsourcing is on the rise and with the exception of the Clinton years, it has been growing since the 1980. However, in recent years the military build-up by the Pentagon in relation to the 'War on Terror', and in particular the war in Iraq, the share of contracting is not growing faster than the overall military spending with the Bush administration. U.S military spending has doubled since 2001 and same applies for the spending on contracts. Contracting is on the rise but not more than overall military spending. Indeed the U.S. national defense strategy describes an outsourcing policy to maintain strong military force. Another fact is that the ratio between contractors and soldiers under arms has never been as high as it is today in the war in Iraq. Therefore by only looking at military spending, outsourcing is not growing per-se even though it counts hundreds of billions of dollars, i.e. it is not a higher percentage of U.S. military spending now, than it was in 2001, but when looking at the personnel actually engaged in the battlefield in comparison to the conventional soldier the trend is clear. Therefore the emphasis in privatization can be said to have shifted toward increased use of *Military Provider Firms*, i.e. PMC's under arms conducting military operations in the battlefield. The *Military Consultants Firms* and the *Military Support Firms* have nevertheless grown tremendously in the current state of affairs. Indeed many analysts believe that the modern military force is incapable of fighting war without the ample support from multitude of different PMC providing for various goods and services.

Hobsbawm was right when he predicted the increased importance of private enterprise in future wars and the overall change in the general nature of warfare: national assemblies are

losing control over violence and the deployment of military force. The emerging reality in the realm of globalization is that decisions affecting all levels of human life are, on an increased scale, made in business boardrooms rather than parliaments. I believe this is a reason to be concerned. The lack of a strict legal, not to mention an ethical framework in relation to the PMC's and their operations, is a threat to the global community. PMC's don't fall under any jurisdiction and international laws don't apply. They are in theory and in fact one of the few industries, if not the only one, not dictated by the rule of law but simply by economics.

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Appendix

Following is a partial listing of PMC's taken from Peter Singers *Corporate Warriors*:

AKE Limited	www.akegroup.com
Airscan	www.airscan.com
Alpha	www.akfa-m1.ru/about/about-eng.html
AMTI	www.amti.net
AOgroup-USA	www.aogroup-usa.net/who.htm
Archangel	www.antiterrorconsultants.org
Armorgroup	www.armorgroup.com
ATCO Frontec	www.atcofrontec.com
Aviation Development Corp.	www.aviationdevelopment.com
Beni Tal	www.beni-tal.co.il
Betac	www.betac.com
Blackwater USA	www.blackwaterusa.com
Blue Sky	www.blueskys.com
BRS (Halliburton)	www.halliburton.com/brs/brs.asp
CACI System	www.caci.com
DFI International	www.dfi-intl.com
Chilport Ltd.	www.chilport.co.uk
Combat Support Associates	http://csakuwait.com
Control Risk Group	www.crg.com
Cubic	www.cai.cubic.com
Custer Battles	www.custerbattles.com
Drum Cussac	www.drum-cussac.com

Dyncorp	www.dyncorp.com
Eagle Group International	www.eaglegroupint.com/index.asp
EFFACT	www.effact.i110.de/home.htm
E.G. & G. Services	www.egginc.com
Erinys	www.enrysinternational.com
Evergreen Helicopters	www.evergreenaviation.com
Executive Outcomes (Archive)	http://webarchive.org/web/19980703122204/http://www.eo.com
Global Impact	www.clseprotection.ws
Global Univision	www.globalunivision.com
Gray Security	www.graysecurity.com
The Golan Group	www.grupogolan.com
Groupe Earthwind	www.groupe-ehc.com
Hart Group	www.hartgrouplimited.com
HSS International	www.hikestalkshoot.com
I-Defense	www.idefense.com
International Charter	www.icioregon.com
International Security Solution	http://iss-internationalsecuritysolutions.com
International SOS	www.internationalsos.com/company
L-3Communications	www.l-3com.com
Logicon	www.logicon.com
Marine Risk Management	www.marinerisk.com
Mideast Security	www.globalic.net/security.htm
MPRI	www.mpri.com

NFD	www.nfddesign.com
Northbridge	www.northbridgeservices.com
Olive Security	www.olivesecurity.com
Pacific Architects and Engineers	www.paechl.com
Pistris	www.pistris.com
Ronco	www.roncoconsulting.com/index.html
Rubicon	www.rubicon-international.com/cases/sierra.htm
SAIC	www.saic.com
Sandline	www.sandline.com
Seven Pillars	www.7pillars.com
SCS	www.southerncross-security.com
SOA	www.specialopassociates.com
Strategic Communications	www.behavioural.com
Strategic Consulting International	www.csi2000.ws
Sukhoi	www.sukhoi.org/eng/home.htm
TASK International	www.task-int.com
THULE Global Security	www.brainstemdowry.com/work/thule/intro.htm
Trident	www.trident3.com
Trojan Security International	www.trojansecurities.com
TRW	www.trw.com/system_it/defense.html
UPES	www.yomari.net/upes/gurkha.html
Vector Aerospace	www.vectoraerospace.ca
Vigilante	www.vigilante.com
Vinnell	www.vinnell.com