



Surrendering Sovereignty

The Private Military Industry, the State, and the Ideology of Outsourcing

John Boyce

Lokaverkefni til MA-gráðu í stjórnmálafræði

**Félagsvísindasvið
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HÁSKÓLI ÍSLANDS

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Abstract

In the globalized world of the twenty first century, the modern nation state has been revolutionized, resulting in progressively changing perceptions of the extent of state involvement in the lives of its citizens.

Functions once assumed to be the preserve of the public sector have, in the neo-liberal era, been increasingly farmed out to the private sector. The running of hospitals, prisons and transport systems are increasingly subject to outsourcing and privatization. The trend has also been extended to the once sacrosanct territory of warfare, where private soldiers for hire play an increasing role in the military capability of the state. This has potentially far reaching consequences for one of the time honoured sovereign principles of the nation state, the monopoly on the legitimate use of force.

The rise to prominence of private military firms (P.M.F.s) has not happened in isolation. It is one of a myriad of increasingly powerful non-state actors that have thrived in our contemporary neo-liberal environment. Their increasingly competitive relationship with national governments is creating a more complex, less state-centred international system which, some theorists argue, undermines the authority of the state and the democratic systems of control and public accountability that underpin it.

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Preface

Perhaps one of most difficult tasks a prospective graduate must face is choosing an appropriate topic for their final thesis. One hopes to explore a topic in which one is personally interested, yet one that has not already been analyzed to death as it were.

With these considerations in mind, I decided to investigate the relationship of the state with other players in the international arena. Having a myriad of possibilities to choose from, including international financial institutions, multilateral organizations, insurgent groups and non-governmental organizations, I eventually settled on the private military industry.

This choice was influenced by the possibilities for extrapolation it afforded me, in terms of the broader research question regarding the relationship of the state with other actors, and the potential consequences for its place in the international system. The private military industry, as well as being directly relevant to some of the biggest geo-political events of the last decade, such as the wars in Iraq and Afghanistan, and to the dominant political philosophy of the age, neo-liberalism, also goes to the heart of the debate about contemporary sovereignty in terms of one of the key functions of the state, the legitimate use of force.

By using the private military industry as my case study subject, I hope to shed light on all of these phenomena and come to a greater understanding of the forces that shape the contemporary international system and our place as nation state citizens within it.

In conclusion, I would like to take the opportunity to acknowledge the invaluable assistance of my thesis coordinator, Professor Baldur Thorhallsson, for his helpful suggestions, continual guidance and always constructive criticism.

Introduction

Since the inception of International Relations (IR) as an academic discipline in the early years of the last century, political scientists have struggled to frame and make sense of the complex set of relationships that go to make up the international system. One of the few things upon which there has been broad agreement is the role of the nation state as its primary unit. However, in an era of unprecedented globalization and with the proliferation of a variety of non-state actors, the international system has become a crowded place. The state, though undoubtedly the most recognizable and recognized unit, has faced increasing competition, particularly for control and authority over aspects of national life once considered a sovereign preserve. For some theorists it represents a sea-change, presenting challenges to the state that are fundamentally different from anything it has faced before.

Viewed from this perspective, the international stage is a place where non-state actors have increased exponentially in size and far reaching influence, and have begun to seriously encroach on the domain of the state. The result is a swiss cheese effect, whereby the state while maintaining a dominant facade is increasingly hollowed out by external forces. More than any other theorists, transnationalists believe that we have entered a new era of unprecedented state weakness, the most important consequences of which are a diminution of state control, a weakening of democratic institutions, and by extension, the increasingly inability of the state to fully execute tasks democratically mandated to it by the electorate.

The aim of this thesis is to test this theoretical perspective through the employment of a case study to assess the extent to which sovereignty and democratic accountability is being surrendered through the usurpation of state authority by non-state actors in key areas of responsibility.

Before proceeding to the case study, the central proposition must first be placed in context, by establishing a clear theoretical framework, and by addressing some key theoretical questions.

With these objectives in mind, the preliminary section of the thesis begins by outlining the principle I.R. theories of the state, followed by an examination of the differing perspectives on the origin and evolution of the nation state, which have helped informed such ideas. To complete the backdrop, the role of non-state actors is factored into the equation with a brief look at how their rise to greater influence has redefined the international landscape, in terms of how the role of the state is perceived.

The final section of the preliminary chapter will place the broader research question in theoretical perspective by presenting opposing sides of the argument regarding sovereignty and the state.

Do contemporary challenges to the state from a range of increasingly powerful non-state actors represent an unprecedented attack on its sovereign authority, and by extension democratic accountability to its citizens, or are they merely the latest in a long line of challenges that the state has faced since it established itself as the primary unit of the international system?

As previously mentioned, there are a myriad of non-state actors (NSA) competing for power and influence in the international milieu, from multilateral regimes like the European Union (EU), influential international financial institutions such as the International Monetary Fund (IMF) and the World Bank, to powerful transnational corporations. It would, of course, be impossible to investigate all such entities within the confines of a single thesis. Hence the use of the case study model, a well-established method for testing whether a theory model applies to phenomena in the real world. Ideally, a case study should have the capacity to condense the broad field of investigation down to a few more easily researchable examples, and potentially generalize a particular set of results to a broader theory. It was decided that transnational corporations (TNC) would best fulfill these prerequisites, and was duly chosen as our case study subject.

The opening chapter of the case study will document the rise of T.N.C.s as powerful non-state actors in the modern economic and political milieu, and will argue as to the autonomy they enjoy as non-state actors in a globalized world. Moving from the general to the particular, the focus will move to a specific T.N.C., the private military industry, in order to test aforementioned transnationalist claims about the relationship between the state and non-state actors.

Our investigation of the private military industry will begin by explaining how P.M.F.s went from bit players in international conflict to a multi-billion pound industry, seemingly indispensable to modern warfare, and the factors which have led to this exponential growth. Equally important will be to establish how the industry is fundamentally different from traditional mercenary activity and that, while it may bare similarities to the mercenary tradition, it is in many ways a distinctly new and modern phenomenon, intimately connected to late twentieth century political and economic changes that speak to a wider truth about the relationship between the state and contemporary non-state actors more generally.

To assess the implications that the real world activities of the private military industry may have for state control and democratic oversight, the case study will focus on a particularly time honored state function; the monopoly the state has traditionally enjoyed over the legitimate use of force. As is often remarked, the security of its citizens is the first duty of the sovereign state and thus, its use of force in defense of its citizens, the democratic mandate it receives to do so, and the circumstances in which it may legitimately employ said force, are central to the broader context of our research question. With these considerations in mind, the case study will examine the extent to which the employment of private military force may undermine these fundamental principles by allowing private, largely unaccountable, non-state actors to wield undue influence in this most fundamental of state functions.

To fruitfully use the role of the private military industry as a catalyst to expose wider truths about the relationship between the state and non-state actors, the industry will be examined in three specific aspects, all related to the crucial issue of control. Part one will deal with the industry as a powerful T.N.C.in itself, its relative impunity of action, the failure of regulation, the reasons for that failure, and the implications for the state's monopoly on the legitimate use of force, when P.M.F.s are introduced on to the battle field.

Part two seeks to firmly place the private military industry in a wider context, as one element of a much larger late twentieth century process of dramatic political and economic change, centered on the ascendancy of neo-liberal ideals and the transnational power of the market. In this chapter we will examine how belief in unfettered market forces, and attendant processes of privatization and outsourcing has created a milieu in which the actions of P.M.F.s, as non-state actors, increasingly transcend territorial borders, creating unprecedented challenges for sovereign control and democratic oversight.

The third and final part will focus on the relationship between the private military industry and other non-state actors, from powerful T.N.C.s and lawless insurgent groups to respected multilateral institutions. The purpose of this final chapter is to examine the extent to which different N.S.A.s may reinforce each other at the expense of the state, in terms of the authority it exerts over the use of force.

The thesis will conclude with a brief summary of the methodology employed and a judgment of the extent to which the evidence presented lends weight to transnationalist concerns about a weakening sovereign state and its future role in the international system.

Theoretical Perspectives on the Role of the State

The State in International Relations Theory

In the relatively short history of International Relations as an academic discipline, the role of the state in the international system and its implications for our evolving understanding of the concept of sovereignty, has exercised the minds of some of the most prominent I.R. thinkers. As this thesis seeks to examine the relationship of the state with non-state actors, a necessary starting point is a brief elucidation of the major I.R. theories on the role of the state in the international system.

All of the major strands of I.R. thought have developed theories on the state. Some are long established, dominant, and seek to validate the status quo, others are newer, more radical, and seek to challenge long held assumptions, while still more thread the centre ground between old certainties and radical departures.

In this opening section, the major strands of I.R. thought and their perspectives on the role of the state as the primary unit are laid out briefly in order set the scene, as it were, and to provide the theoretical basis for a clear understanding of the central question regarding the extent to which the state has ceded authority and control to non-state entities.

1. Realism and Neorealism

The evolution from realism to its more modern incarnation has involved some significant shifts in emphasis. Renowned neo-realist Kenneth Waltz, and others, have tried to refine and strengthen basic realist tenants, constructed by the likes of Morgenthau, while keeping faith with the fundamental assumptions of the realist position.

Despite more than thirty years of refining and re-aligning realist theory, one of its key planks of theory, the notion of the state as the primary unit of the international system, has undergone almost no revision at all. The following statements from Morgenthau's seminal work, *Politics among Nations* and

Waltz's *Theory of International Relations*, written thirty years later, are quite revealing in this respect. Morgenthau describes the nation state as "the ultimate point of reference for contemporary foreign policy",¹ while Kenneth Waltz states that "so long as the major states are the major actors, the structure of international politics is defined in terms of them".² In other words, the state as primary actor is a given as far as the realist and neorealist tradition is concerned, one those dreaded "piori assumptions" so loathed by behaviorists.

Realist views on sovereignty resonate to a degree with the primordial view of the state outlined in the next section, in that contemporary erosions of sovereignty which alternative theorists see as unprecedented state decline, represents for Waltz and his realist ilk, merely an extension of the imperfect sovereignty that states have always endured.

2. *Liberalism and Liberal Internationalism*

In some ways liberalism and its evolution towards liberal internationalism is the most fluid theory in terms of the role of the state as primary unit. In stark contrast to realism and neorealism, liberalism, in its various incarnations, has evolved considerably in its perspective on the role of the state in international affairs.

Liberalism envisaged the possibility of a fraternal international community of states drawn together by mutual interests and where international anarchy and aggression would be reduced by robust international organization, which would promptly settle disputes in a civilized manner. Wilsonian liberalism was ultimately quite limited in that the sovereign state was, as much as in realist theory, an uncontested assumption. John Ikenberry, in his work *Liberalism 3.0: America and the Dilemmas of Liberal World Order*, succinctly outlines the evolution of liberalism from Wilsonian principles to a view of an international system "that will no longer be built on equilibrium or balance among great powers",³ and where private governance by the U.S. in the form of N.A.T.O. would give way to more universal

¹ Morgenthau, Hans J. 1948 : 12

² Waltz, Kenneth. 1979 : 89

³ Ikenberry, John. 2009 : 80

forms of governing institutions. A system where non-state entities such as the World Bank, the international monetary fund (IMF) and the European Union (EU) increasingly influence the domestic politics and governance of supposedly sovereign democratic states, and where principles such as the “Responsibility to Protect” promote the concept of intervention in the affairs of sovereign states, is increasingly characteristic of what Ikenberry describes as a post Westphalian international system. Given the concessions that liberalism and liberal internationalism make to the reality that the international system has become a more diverse and complex one, it marks a limited break with the absolutism of the realist position, while still assuming that the state largely remains the lynchpin of the international system.

3. Critical Theory

Critical theory, as in so many spheres of academia in recent years, has entered the discipline of International Relations to significant effect. The central focus has been to question and challenge the whole notion of the theorist as objective observer. For the critical theorist there are simply no truly objective judgments, only subjective value laden opinions. From the critical point of view there are inevitably limits on what is “knowable” and “knowledge is always and irreducibly conditioned by historical and material contexts”,⁴ and with such perspectives critical theorists take their influences from a diversity of sources, from Kant to Marx.

In common with transnationalist theorists, critical theorists critique realism but from a differing perspective. Critical theorists reject so called problem solving theory that realists cherish, and the central claim of realism to be value neutral. Leading critical theorist, Robert Cox notes the importance of questioning problem solving theory and “to ask whom and which purposes such theories serve”.⁵ According to Cox such theories “tend to adopt a fixed ahistorical view of the framework”,⁶ reinforcing the existing order, something critical theorists have dedicated themselves to

⁴ Devetak, Richard. 2001 : 161

⁵ Cox, Robert. 2010 : www.Theory-Talks.org

⁶ Cox, Robert. 1987 : 211

questioning. This questioning also extends to the role of the state in the international system. Where traditional theories take the state very much for granted, critical theory “examines the changing ways in which the boundaries of community are formed, maintained and transformed”.⁷

The theories described thus far have, to varying degrees, digressed from the long dominant realist discourse about state primacy in what for realists remains essentially a Westphalian international system. However, the theoretical perspective that most forcefully challenges realist assumptions about the state is the transnationalist position which relates most directly to the research question at hand, and it is to an examination of this perspective that we now turn.

4. Transnationalism and Interdependence

Of all the theories outlined in this first section, transnationalism and to a lesser extent interdependence, are perhaps the most relevant to the central questions addressed by this case study, presenting as it does a direct challenge to the conventional wisdom that has held sway among the dominant I.R. strands of realism and liberalism.

The concept of a transnationalist framework as an alternative way of looking at power relations in the international system first came to prominence in the 1970s. Its original leading light was one Ernst Haas, a political scientist who viewed European integrationist tendencies of the 1950s as the beginning of a truly unprecedented shift in the structure of international politics. A new dispensation in international relations was evolving, facilitated by the forces of global integration. Essentially, this theory claimed that “the sovereignty of the state was being eroded”,⁸ not only as a result of economic integration and processes such as economic and commercial globalization, but by the associated rise of non-state actors that wielded more power than the relatively ad hoc and marginal actors of the pre-

⁷ Devetak, Richard. 2001 : 182

⁸ Hollis and Smith. 1990 : 34

war era. It was these “new forces in world politics”⁹ that attacked the integrity of the state by increasingly “penetrating its territory and reducing its autonomy”.¹⁰

According to early transnationalist precepts, these new non-state actors are as diverse as they were powerful, ranging from the then emerging E.U. to the increasing influence of institutions such as the I.M.F., the World Trade Organization (W.T.O.) and the World Bank. As we shall see in the following section, transnationalist theory implies a disconnect between superficial perceptions of the state and the reality, in terms of reduced internal sovereignty. In other words, to truly understand the forces that shaped international relations one had to look beyond the superficial state centric perspective to a more holistic view that gives due weight to non-state actors who increasingly carve out spheres of control and influence, often at the states expense.

Transnationalism has much in common with interdependence, but differs in the degree of power and influence it accords these new forces and the extent of decline that this signifies for the nation state. Keohane and Nye in their groundbreaking work *Power and Interdependence* try to plough a middle furrow between staunch realist assumptions of state supremacy and more radical pluralists. In their view it is fruitless to argue between the modernist and traditional position¹¹ with regard to the state as “our era is marked by both continuity and change”.¹² While not dismissing the very significant role of the state, interdependence theorists contend that only when we “relax the assumption that states are the only units”¹³ is it possible to see the multiple channels that run through societies, such as interstate, trans-governmental and transnational contacts.

⁹ Ibid. : 35

¹⁰ Ibid. : 38

¹¹ Keohane and Nye. 2001 : 4

¹² Ibid. : 4

¹³ Ibid. : 21

The Origins of the Nation State: The Modernist/Primordial Divide

As we discovered in the opening section, the discipline of International Relations has produced a variety of perspectives on how the international system operates and the role of the state within it. Most notable is the diametrically opposing perspectives on the state on behalf of realists and transnationalists, and one that is of paramount concern as we seek to test the proposition that non-state actors in the globalized era represent an unprecedented threat to the state.

In the last chapter of this opening section, a more detailed presentation of opposing I.R. arguments regarding the vexed question of sovereignty will be laid out before theory gives way to practice in the case study. Before addressing these issues, some important preliminary groundwork must be completed with regard to the two players that take centre stage in our research question, the modern nation state and contemporary non-state actors.

We will begin with an examination of the opposing views on the origin of the nation state. This is not merely an exercise in academic introduction, but provides important subtext on two levels. In the first place, it introduces the concept of the state as a malleable entity and therefore, in theory at least, susceptible to infiltration, a theme that will come into sharp focus later in the case study. Secondly, but no less important, it provides us with an insight into how differing perspectives on nature of the state as an entity has influenced diverging IR theories regarding its present and future role in the international arena.

For many historians and academics, the French revolution marked the birth of the modern nation state as we know it when “it combined the declaration of the rights of man with a demand for national sovereignty”.¹⁴From the tumult of the revolution came a radical new constitution which advocated the abolition of feudalism at home, of slavery in the colonies, and the extension of universal suffrage. It thus became the “the first genuinely democratic constitution proclaimed by a modern

¹⁴ Arendt, Hannah. 1966 : 230

state”.¹⁵The French revolution not only inspired radicalism across the Atlantic but also revolutions in Europe which would culminate in the unprecedented age of nationalism and ultimately the creation of many of the states that compromise the international system we recognize today. There are, inevitably, quite conflicting theories about the processes that laid the foundations of modern states. The most profound fault-line is between the primordial and modernist perspectives.

Until the latter half of the twentieth century primordial theories had firmly held sway, but in the 1960s a new wave of theorists, led by Earnest Gellner, challenged the long held notion that nations were de facto entities before the emergence of political nationalism. Essentially, modernists view the nation state of the 18th century as a distinctly new phenomenon whose origins cannot be directly traced back to pre-modern structures. Modernists reject the notion of nations as primordial entities that could be identified clearly in terms of commonalities such as language, ethnicity or religion. Gellner was strongly supported in these assertions by renowned Marxist historian, Eric Hobsbawn, for whom the nation “in its modern and basically political sense....is historically very young”.¹⁶

If modern states do not have their distant origins in the inevitable outgrowth of pre-existing cultures that exhibit certain fundamental commonalities and continuities, what then, to the modernist mind, accounts for the emergence of nation states of the eighteenth century?

According to modernist theories, the emergence of modern states is inescapably bound up with the processes of modernity. Pre-modern agrarian societies were by their nature localized, and allegiance was generally orientated towards family and kinship, in other words smaller isolated units of social existence. In such a society “no national consciousness was possible”.¹⁷The age of revolution, as Hobsbawn calls it, influenced by the enlightenment, the reformation and the rise of humanism, has produced national entities so markedly different from pre-modern units as to constitute a definite break with the past. The revolutionary changes of this era, such as the demise of agrarian society, rapid industrialization and economic growth, urbanization, mass education and increased prosperity were instrumental in the creation of political national consciousness. This was engendered by the growth

¹⁵ Hobsbawn, Eric. 1990 : 91

¹⁶ Hobsbawn, Eric. : 18

¹⁷ Gellner, Earnest. 2003 : 16

and rapid expansion of a middle class with “higher rates of literacy and education”.¹⁸ These processes transformed the very basis on which society was organized, eroding the localized agrarian social model, producing political entities based on citizenship with a much less god centered view of political authority, and of larger size, with more highly defined ethnic and political boundaries. In addition, they displayed a much higher degree of economic integration, and the diffusion of the written word through the printing revolution vastly increased literacy, making for a more aware and informed citizenry in the form of an embryonic middle class. In effect, they were the “high culture” storm troopers for ever more complex social and political organization, a feature distinctly lacking in pre modern societies.¹⁹

The academic divide between modernist and primordial views of the nation state goes to the heart of the conflicting I.R. assumptions about the state and its relationship with contemporary non-state actors. In essence, Gellner and Hobsbawn’s view of the modern state as a bi-product of industrialism and the forces of capitalism underlines, from their perspective, the transitory nature of the state. Indeed, Hobsbawn goes even further and predicts the demise of the political nation state in the face of globalized industrialization.²⁰

Such perspectives are diametrically opposed to the realist assumptions of the state as the unrivaled unit of the international system, with little prospect in the foreseeable future of a change in the status quo. Although some realist oriented I.R. academics would agree with the view of the state as a modern construct, they reject the Marxist conclusion of imminent state decline. Robert Gilpin for example, concedes the modernist point that “The state was created to meet specific needs, to provide economic and political security”,²¹ but is still firmly of the view that “the nation state remains the dominant actor”.²²

Modernist theories resonate to a certain extent with liberal internationalism and interdependence theorists who, while not identifying with Marxist conclusions, undoubtedly share the view of the state

¹⁸ Sorensen, Georg. 1993 : 26

¹⁹ Hobsbawn, Eric. 1990 : 114

²⁰ Ibid: 182

²¹ Gilpin, Robert. 2001 : 21

²² Ibid. : 4

as a potentially malleable construct. Its chimes most strongly, however, with transnationalists who view the sovereign state as susceptible to processes that transcend national boundaries and that facilitate infiltration of the state and weakening of its internal sovereignty by increasingly autonomous non-state actors.

The Rise of Non-State Actors in the Globalized Era

As is implicit in the name, the term non-state actor is a very broad one and can refer to any entity or force that is not directly controlled, integrated into, or legally part of a sovereign state. Non-state actors can range from an independently funded high street charity like Oxfam to a ruthless guerrilla organization such the F.A.R.C. in Colombia. The reasons for the proliferation of these ever more influential actors are as varied as the actors themselves. The monumental changes in the political map of the world, wrought by the processes of decolonization in the mid-twentieth century, and the collapse of the Soviet Union, undoubtedly created a more fluid global order where all manner of disparate political and quasi-militaristic groups have flourished.

Another important factor has been the growth of multilateralism since the end of the Second World War, with the development of entities such as the European Union and other regional exercises in the so-called pooling of sovereignty. Multilateral initiatives have also led to the creation of extremely powerful international organizations that, though nominally controlled by the community of nations have, in the globalized era, increasingly taken on political lives of their own.

Such developments have their roots in the devastation wrought by the Second World War. With conflict still raging in Europe and the Far East, the major allied industrialized countries led by the U.S. sought to forge a measure of post-war stability by the establishment of international trade and monetary systems to promote commerce and the expansion of investment in overseas ventures.²³ The vehicles for these objectives were to be the Bretton Woods International financial institutions (I.F.I.), namely the World Bank and the I.M.F.. These creations have annual budgets larger than the G.D.P. of some small countries and exert an active influence on the global political and economic system.

Side by side with the rise of the I.F.I.s came revolutionary developments in international trade.

The General Agreement on Trade and Tariffs (G.A.T.T.) came into being with the objective of promoting and expanding international trade and the progressive decline of protectionism and eventually morphed into the W.T.O.. Memorably described by Richard Peet as the unholy trinity, this triumvirate of international institutions have grown exponentially, particularly in the neo-liberal age, to

²³ Karns, Margaret, P. and Mingst, Karen, A. 2001 : 49

become very powerful forces in the global economic and political order, profound examples of the rise of non-state entities that in the world of the twenty first century market capitalism often wield more power and influence over policy than democratically elected governments. This has never been more evident than in the current post- crisis climate where the austerity strictures of the I.M.F., once confined to hapless developing countries, have been extended to some of the most prosperous nations on earth. Both the I.F.I.s and the W.T.O. would have been potentially suitable subjects for a case study dedicated to an analysis of the effects of non-state actors on the sovereign and democratic authority of the nation state.

As we shall see later in our case study, no examination of non-state actors can be complete without reference to the rise of neo-liberal ideology, and its attendant focus on privatization of public provision. Neo-liberalism has led a sustained attack the philosophy of universal state provision of basic services, and has greatly facilitated and legitimized radical policy paths that have been collectively imposed on sovereign states. A third important strand can be added to this finance/ trade complex, that of industry. This field is dominated by transnational business interests in the form of T.N.C.s which expanded greatly in post-colonial Africa, Asia and Latin America, controlling and exploiting an ever growing percentage of developing country's assets and resources in the form of foreign direct investment (F.D.I.). This was encouraged by the prevailing orthodoxies of development that held that G.D.P. growth was the key to economic development in a third world that need do no more than follow the example of the industrialized nations.²⁴

Successive crises of the 1970s, soaring oil prices, ballooning third world debt and rising unemployment helped to destroy the legitimacy of Keynesian philosophies of economic growth within the framework of centralized government control of fiscal and monetary policy. Such developments fostered the growth of a radical neo-liberal philosophy that took hold with the rise of Thatcherism and Reaganism in the early eighties, gaining near absolute hegemony by the turn of the new century.

As we enter the second decade of the 21st century, it is an already well-worn cliché that we live and operate in an unprecedented era of globalization on a variety of levels. It is also widely argued, by

²⁴ Peet, Richard, and Hardwicke, Elaine. 1999 : 80

leading transnationalists and other academics, that our increasingly integrated world is having profound effect on nations and national identity, eroding the extent to which nationalism remains “the predominant world structure of collective identity”²⁵ by creating new alternative identities. Key to this perspective is the rise of all the aforementioned non-state actors that compete with sovereign states not only for international political influence but for control over domestic policy and the public functions of government. As we noted earlier, Modernist historians such as Eric Hobsbawm, go so far as to envisage the eventual demise of the nation state in the face of such globalized structures. “Nations and Nationalism will be present in this globalized history but in subordinate and rather minor ways”.²⁶

Put simply, an almighty struggle is beginning to ensue between ever more powerful globalized non-state actors and the ever weakening nation state, a battle that the state is losing, with profound consequences for its sovereign authority and the democratically accountable, public interest functions it is charged with carrying out. On the opposing side there are those who dismiss such notions as exaggerated and alarmist, and who see the state as remaining robust in terms of sovereign control and accountability to the public.

²⁵ Scholte, Jan Aarte. 2005 : 225

²⁶ Hobsbawm, Eric. 1990 : 81

Historical Versus Contemporary Erosions of Sovereignty

As we discovered in chapter one, all the major theories of international relations have a distinctive take on the role of the state in the international system. At one extreme, is the idea that the primacy of the state is so self-evident that can be taken for granted, and at the other end of the spectrum, the notion that recent decades have seen a truly seismic shift, as the state has begun a serious and unprecedented decline. In our case study, we will assess the extent to which P.M.F.s as non-state actors help to make the case for the latter view rather than the former.

Key in this whole debate is, of course the nature of sovereignty itself. Therefore, in this final introductory chapter, a necessary prerequisite to understanding our research question is an exploration of some fundamental theoretical questions about the concept of sovereignty in both historical and contemporary context.

To begin this discussion, it is useful to return to the first heretofore undisputed principle, that of the state as central unit of the international system. Taking the proposition at face value, it would seem a pretty self-evident truth. The state is clearly the most recognizable, distinct and quantifiable entity on the international stage. To make a judgment simply based on its proliferation, one would have to conclude that the nation state is in rude health. Robert Gilpin, for example, dismisses the idea of state decline with a simple statistic noting that in 1945 there were fifty states in the U.N., but that by the turn of the century there were almost two hundred.²⁷

Transnationalist theorists, however, would urge us to move beyond mere numerical considerations to a more richly layered analysis that distinguishes between a superficial head count of states and how they are actually evolving internally, in terms of control of key functions, and the extent to which they exert real authority.

This premise again calls to mind our central research question: Do these contemporary erosions of sovereignty perpetrated by non-state actors in some areas (a reality that no theorists would dispute)

²⁷ Gilpin, Robert. 2001 : 22

represents a an unprecedented shift away from the centrality of the state, or just another bump on its long evolutionary road, along which the state as an entity has never really enjoyed perfect sovereignty? To answer this question, or at least to fully understand it, we need to take a few steps back to see just how the principle of sovereignty as the corner stone of relations between nations in the international system has fared over the centuries.

Pondering the theoretical nature of sovereignty calls to mind a timeless quote from the bard about certain traditions being “more honoured in the breach than in the observance”.²⁸In the long history of international diplomacy it could be argued that the sovereignty of nations has been treated with similar disdain. Realists in search of evidence that contemporary erosions of sovereignty is nothing unprecedented would be well advised to peruse a copy of *Sovereignty and its Discontents* by Steven Krasner. There they will discover a compelling treatise on the huge gulf between the theory and practice of sovereignty in international relations. Fellow academic, Chris Brown in his work, *Sovereignty, Rights and Justice* concurs with Krasner, succinctly concluding that “the idea that sovereignty constitutes a norm of the Westphalian system can only be taken seriously if the actual practice of the system is ignored”.²⁹

For Krasner, the inherent contradiction lies not in the ideal itself which he concedes is an honorable one, but in its sheer unworkability. The simple fact is that “Rulers have found that is in their interests to break the rules”.³⁰ The realities of the unequal distribution of power between supposedly equal rulers, “who acknowledge no equal at home and no superior abroad”,³¹ mean that intervention in the affairs of ostensibly sovereign nations has itself become the perverse norm of the Westphalian international system. Krasner cites examples where sovereignty has been subverted, where powerful nations, through political expediency, have denied functioning viable nations international legal sovereignty while granting the same to entities clearly unworthy of such an honour. On the face of it such evidence gives considerable succor to the realist view that violations of the integrity of the state

²⁸ Shakespeare, William. 1603: Act 1. Scene 4

²⁹ Brown, Chris. 2002 : 36

³⁰ Krasner, Stephen. 1999 : 7

³¹ Brown, Chris. 2002 : 35

are nothing new. From their point of view "Sovereign states have seldom led free and easy lives"³² and questioning of the state centric view simply stems from a confusion between structures and process.³³ Though state sovereignty has always been abused and subject to political expediency, and continues to be so, it remains indispensable for the practical discourse of international relations. Even in the age of economic globalization the state as the marker of the international milieu is still the only game in town.

A brief practical example from this perspective would be Kosovo, which five years ago unilaterally declared its independence. Krasneresque objections to the ulterior motives of those supporting it, the dubious legality of its declaration, and its lack of Westphalian Sovereignty in the short term, through E. U. imposed administration notwithstanding, there is, to para-phrase Brown, "enough connection between the norms of the system and state conduct to allow {Kosovo} to move on".³⁴ So for all its defects the realm of sovereignty, Kosovo still takes its place on the world stage. Kosovo, in the context of our theoretical debate, could be taken as a microcosm of modern states in the international system more generally. For all the indignities that the state suffers from transnational forces, frontier-less financial instruments, multinational corporations and international institutions, just like Kosovo, the state retains more than enough control to carry on as the primary unit of the system.

More traditional liberal theorists in the Wilsonian mode would also signal a moral imperative by returning to first principles and the roots of the concept of Sovereignty. As Wilson put it in his famous first principles, the aim was to "afford ... political independence and territorial integrity to great and small nations alike".³⁵ In this sense, the notion of state sovereignty is rooted in natural law and the equality of the individual whereby "The legal principle of sovereignty ... is established by analogy with the natural equality of persons".³⁶ The concept of the equality of individuals under the law and the democratic norms that flow from this (one man, one vote etc.) is firmly rooted in social and political discourse and despite its patent violation on a daily basis across the world, for us as citizens (at least

³² Waltz, Kenneth. 1979 : 90

³³ Ibid

³⁴ Brown, Chris. 2002 : 37

³⁵ Wilson, Woodrow. 1918: "Fourteen Points " speech, January 8th

³⁶ Brown, Chris. 2002 : 32

for the vast majority of us) it would be unthinkable to abandon such a fundamental principle however imperfectly it is applied in practice. And so it is with the sovereignty of nations.

What would those who challenge the apparent consensus of state dominance in international affairs say to such arguments? Few would deny the general thrust of Krasner arguments that sovereignty in legal terms has often been more illusion than reality. However, from a transnationalist perspective, the key difference between the abuses that Krasner describes and contemporary erosions of state sovereignty is the source of the abuse. Contemporary attacks on sovereignty are not simply a matter of weaker states falling victim to the expediency of stronger ones, but emanate from external or non-state forces that cannot be explained simply in terms of age old violations of sovereignty. At this point a simple analogy may be useful to illustrate the point. In the long history of the canine world, big dogs have always preyed on smaller ones, but from time to time a force such as rabies emerges and preys on all dogs, weakening dogs as a species in and of itself. In a similar way the state is under attack from increasingly autonomous processes and forces that are affecting the state as an entity, representing more than mere infighting between states of greater or lesser size. Such theorizing begs two obvious questions. What are these new forces and to what extent can they be said to be autonomous from the state and not simply more sophisticated instruments which the strong states use to wield power over weaker ones? The first question we shall address now, the second in due course.

As we outlined in the previous chapter, according to transnationalist and to a lesser extent interdependence theoretical perspectives, these new forces are made up of increasingly powerful non-state actors enormously facilitated and enabled by globalization, particularly in its economic form. In his work *Globalization*, M. Walters describes the phenomenon as a process in which the constraints of geography in economic, social, political and cultural arrangements recede and in which people act accordingly.³⁷ Some commentators agree that such processes have begun “to challenge the position of the nation state as the predominant touchstone of identity in society”,³⁸ and hence the primary marker of the international system. These ideas tie in with the views of Hobsbawm and Gellner of the state as

³⁷ Walters, Marshall. 1995 : 3

³⁸ Scholte, Jan, Aart. 2003 : 230

a transitory phenomenon rooted in the unprecedented political and economic changes of the 18th century that facilitated the creation of larger, economically viable units of social organization. Globalization is, therefore, the logical progression of these forces whereby increasing “interdependence means that much larger economic units will provide the basis of community in the future”.³⁹ The reduction in the importance of territorially based production is, for Hobsbawm in particular, in accordance with a vision of the nation state as increasingly irrelevant in the global age. In his view, the state is a phenomenon that will continue to exist, but in a hollow and perfunctory fashion. From this perspective, Robert Gilpin may well be technically correct in his assessment of the unprecedented proliferation of states, but it is a hollow victory because as entities they will simply mean less and less in the great scheme of things.

So if the state is losing control then who, or what, specifically is gaining it? It is at this point that interdependence and liberal internationalist ideas come more to the fore. As was pointed out earlier, both would remain shy of the more far reaching claims made by transnationalists about the demise of the state, preferring to thread a middle ground between the absolutism of realism and the radicalism of transnationalism. However, both liberal internationalist and interdependence advocates do see a world where non-state actors play an increasingly important role and “where the participation of large and dynamic organizations not controlled entirely by governments has become a normal part of foreign as well as domestic relations”.⁴⁰ Another focus of both is the increasing importance of forms of global governance. Though Keohane and Nye (both leading exponents of interdependence theory) concede that attempts at such arrangements “are likely to be fragmented and messy as global governance is now”,⁴¹ the crucial point with regard to this discussion is that they believe they are firmly underway. For interdependence theorists, developments that transfer governance from state to supra-state levels are largely positive steps in creating a more manageable, cohesive and less violent international system. For the more radical transnationalists, the emergence of non-state actors is less welcome and, in some cases, constitutes an affront to democracy. With the increasing power of multinational

³⁹ Smith, Anthony. 2002 : 10

⁴⁰ Keohane and Nye. 2001 : 22

⁴¹ Ibid : 259

corporations, international organizations such as the IMF and the WTO, it is felt that “the locus of effective political power can no longer be assumed to be national governments”,⁴² a development which has led to serious “discontents about democratic deficits”.⁴³In other words, the processes of globalization and the associated actors its enables appear to weaken the ability of the nation state to ensure that, “citizens hold the ultimate power over collective decisions”⁴⁴through the democratic process.

For the anti-statists that dominate critical theory, however, anything that undermines the power of the nation state is to be welcomed. They profoundly regret that the modern state has “been fetishized as the normal mode of organizing political life”.⁴⁵ According to critical theory the exclusionary power of the state has a very negative effect on societal relations and has acquired extraordinary and oppressive monopoly powers.⁴⁶Ultimately though, as much as they may dislike it, critical theorists on the issue of state centrality fall far closer to a realist perspective in the sense that they view the state as remaining regrettably all powerful and the alternatives to state based forms of organization in society as potential processes to be encouraged rather than ones that already exist in any meaningful way.

In conclusion, it goes without saying that holes can be credibly picked in almost any theory and I.R. theories on sovereignty and the state are no exception. Realist theory begins with an almost build in advantage as it essentially supporting the status quo which others must strive to disprove. However their greatest advantage is also their greatness weakness. While Realism has “offered an elaborate description of the state and its emergence”,⁴⁷having taken the primacy of the state almost wholly for granted, it has signally failed to create a coherent theory of it. As Chris Brown points out in *Understanding International Relations*, “Its state centricity suggests that realism ought to have a clear theory of the state but as it happens this is not the casethis lack of a clear theory is an important

⁴² Held, David. 1999 : 80

⁴³ Scholte, Jan Aarte. 2005 : 348

⁴⁴ Ringen, Stein. 2007 : 25

⁴⁵ Devetak, Richard. 2001: 169

⁴⁶ Ibid. : 170

⁴⁷ Brown, Chris. 1997 : 68

problem at the heart of realism".⁴⁸This, coupled with its absolutism on the state primacy issue, leaves it vulnerable to even the slenderest evidence to the contrary.

On the opposing side, transnationalists are adamant that unlike violations of the past, the contemporary attacks on the power of states to control their own affairs are new and unprecedented. However, some of the examples that transnationalists cite in support of their theory are subject to fierce dispute. In the first place, the extent to which globalization has truly "transnationalised" the economic sphere remains an issue of great contention. Many would argue that its effects are exaggerated and that the process is not as significant as some people seem to think.⁴⁹As far as Robert Gilpin is concerned this is "still a world where national policies and domestic economies are the principle determinants of economic affairs".⁵⁰There is also the argument that transnationalists place too much emphasis on the parts of the state that suit their arguments. According to noted author on nation states and the roots of nationalism, Anthony Smith, this is the result of the unjustifiable subordination of the social and cultural sphere to the economic and political, inherent in the modernist conception (or as Smith would have it, misconception) of the state as a wholly modern, political creation. So where Hobsbawm and transnationalists see weakness and decline of the state, Smith sees a dexterous "change of functions from the economic and military to the social and cultural",⁵¹ proof of the states "chameleon like ability to transmute itself according to the perceptions and needs of different communities".⁵²

In relation to the central question of this thesis, there is another, perhaps more important, objection to transnationalist theorizing on the decline of the state and one which returns us to the second of the two questions we posed earlier about the extent to which "these new forces" such as T.N.C.s are autonomous from the state and not simply instruments ultimately controlled by them. Stephen Krasner argues that, for the all changes that have taken place in the global economy over the last 30 years, transnational corporations "still largely operate within a context governed created and

⁴⁸ Brown, Chris. : 68

⁴⁹ Gilpin, Robert. 2001: 10

⁵⁰ Ibid : 3

⁵¹ Smith, Anthony. 2002 : 25

⁵² Ibid : 13

sustained by states".⁵³This is a key argument that must be effectively refuted if the premise upon which transnationalists base their theories is to be successfully advanced in the subsequent case study of the private military industry. Therefore, the opening section of our case study will not only afford an opportunity to introduce our case study subject, transnational corporations, but also to directly address the key question of their autonomy from the state.

⁵³ Krasner, Stephen. 2008 : www.Theory-Talks.org

The Private Military Industry: A Case Study

Introduction

In the preliminary chapters of this thesis, we sought to establish the theoretical framework upon which the case study is premised. In the final chapter of the opening section, opposing views were presented on the status of the sovereign state and the extent to which this had fundamentally changed in the light of competition from non-state actors closely associated with the processes of globalization. The transnationalist interpretation of these processes is that the state and its democratic institutions are under unprecedented attack from non-state forces that have risen hand in hand with the globalization of the political economy, and so the central task of the case study will be to test the veracity of these claims.

Part one of this case study introduces the general subject, the contemporary transnational corporation of which the privatized military industry is a representative example. We will begin by outlining the evolution of T.N.C.s, and their exponential growth in the era of globalization and of neo-liberal hegemony, interrelated factors that are essential to the understanding of the relationship between contemporary non-state actors and the state, before going on to address Krasner's argument that corporations remain essentially under the auspices of the state.

Part two will move the focus on to our specific T.N.C. example, explaining the economic and political and historical factors that prompted the growth of private military companies from humble beginnings to a multi-billion pound global industry, which is representative of the exponential growth and autonomy of both corporations specifically and non-state actors more generally. In part two we will also argue the case for the private military industry as a uniquely late twentieth century phenomenon, and a product of contemporary forces connected with the globalized economy that have also shaped the evolution of other non-state actors and their relationship with the state.

The final and most substantive section will begin by outlining the basic sovereign principles that underpin the states enjoyment of a monopoly on the legitimate use of force. We will then proceed to analyze how the activities of the private military industry violates these principle in tangible and consequential ways, as a powerful T.N.C. in its own right, as part of a wider process of N.S.A. empowerment linked the prevailing political, economic and ideological landscape of the twenty first

century, and in concert with other powerful non-state actors. In conjunction with this analysis the serious consequences these developments have for the accountability of democratic institutions, rigorous oversight of policy decisions and respect for the norms of national and international law will also be assessed.

Part One; Transnational Corporations in a Globalized World

TNCs in Historical and Contemporary Context

In this chapter two important aspects of T.N.C.s directly relevant to our thesis proposition will be addressed. In due course, we will attempt to refute claims made by Stephen Krasner and other academics that T.N.C.s are under the effective control of national governments and international law. Firstly, however, it is instructive to examine the development of TNCs, the context in which they have risen to such significant transnational power, and the evolution of their relationship with the state.

Transnational corporations have been in existence since the salad days of the British Empire and the growth of international commerce in the 19th century. For many economists it is an era that constituted the first real wave of globalization, with an explosion of trade that arguably produced an economy almost as integrated as our own.⁵⁴ While anti-globalization advocates take solace from the inter-war retreat from globalized free trade, viewing it as a rejection of the brutal inequalities it fostered, globalization's champions viewed the period as merely "a temporary detour from the longer historical trend towards the construction of an integrated world economy."⁵⁵

One thing that clearly distinguishes contemporary globalization from its earlier form is the changed nature of the state in the intervening period. From the great depression, through the new deal years, post-World War Two reconstruction, the economic expansion of the 1950s and 1960s to the present day, the nature and role of government today has evolved significantly from the *laisse faire* entities of the nineteenth century, not only in terms of intervention and control of economic policy, but also in the provision of basic needs, such as welfare, health and employment. This changing context means that the onset and increasing intensity of contemporary globalization has much more profound consequences for the sovereign state than in the days of the British Empire.

⁵⁴ Rodrick, Danni. 1997 : 7

⁵⁵ Hollis and Smith. 1990 : 233

This reality also extends to the elements that operate within the broad framework of what is loosely called economic globalization. One such element is, of course, the transnational corporation.

Hand in hand with the changing nature of the state's role through the twentieth century has been the evolution of T.N.C.s and their exponential growth, particularly in the post-war period. Though usually head quartered in the capitals of the developed world, T.N.C.s have extensive operations around the globe. They have most recently blossomed in the fertile soil of neo liberalism seeing their profit margins soar and their portfolio of interests multiply. Increasing economies of scale and neo-liberal inspired deregulation of rules governing mergers and acquisitions, diversity of ownership in the public interest, and the watering down of competition law (ironic given neo-liberalism's supposed commitment to the free market) have created a very favourable environment for T.N.C.s to operate in. Rather like Pac Man, the classic computer game of old, this has enabled corporate giants to scuttle about the planet to gobbling up their smaller rivals and creating ever larger and more powerful entities. Perhaps the supreme example of this process is the Media industry in the U.S. When the provenance over twenty thousand media entities, (newspapers, TV and radio stations, magazines and movie studios) are traced back to their ultimate corporate parent, it is discovered that the entire media landscape is dominated by about twenty T.N.C.s,⁵⁶ give or take a corporate merger or two.

Such cannibalistic processes mean that in the globalized age, many of the largest T.N.C.s have a net worth greater than many small countries. The net income of General Electric, for example, exceeds that of Denmark.⁵⁷ More astonishing still is the fact that of the 100 biggest economies in the world, fifty one are T.N.C.s, while only forty nine are states".⁵⁸

One of the consequences of these twin developments, (the twentieth century development of state functions and the rise of T.N.C.s) is a clash of competencies, and one in which it is far from clear that the state is winning. As Peter Dicken points out in *Global Shift*, and as we shall see in the following section, what was once the accepted policy domain of modern government, in essence the

⁵⁶ Cohen, Jeff and Solomon, Norman. 2012 : introduction

⁵⁷ Huffer, Virginia. 2001 : 659

⁵⁸ Kline, Naomi. 2000 : 11

right and the power to legislate in the national interest is “now somehow contested territory in the face of the growing power of transnational corporations”.⁵⁹

⁵⁹ Dicken, Peter. 2003 : 123

The De Facto Autonomy of Transnational Corporations

As was noted in the previous section; concentration of wealth and resources among contemporary T.N.C.s is unprecedented in the globalized era and has been greatly facilitated by the prevailing political and economic philosophy. Income trends in the U.S. over the past twenty five years reveal that while real value of wages has been stagnating since the 1970s, corporate profits have soared by several hundred percent placing these entities at a considerable economic advantage.

Such developments prompt an important question; what are the consequences of such exponential growth for the effective control of these enormous conglomerate entities by the state? In other words, at what point does the tail start to wag the dog? There is ample contemporary evidence that T.N.C.s, armed with enormous resources and financial muscle can act with increasing impunity, and that the regulatory framework that is designed to contain them in the public interest is ever more illusory than real. In short, with T.N.C.s it appears to be a case of de jure control but de facto autonomy. Nowhere is this more evident than in T.N.C.s dealings with the governments of supposedly sovereign states.

Since the 1980s the prevailing neo-liberal ideology has led to massive deregulation in the form of the free movement of goods and labour, an important element of which is the skewed international trade system inevitably rigged in favor of the developed world from which the vast majority of T.N.C.s emanate.⁶⁰ Among other consequences has been the unseemly race to the bottom in terms of labor costs and working conditions as a stream of manufacturers desert the first world for the cheaper climes of the third. India, Mexico and China are but the most stellar of examples. In such an environment, T.N.C.s find themselves in the enviable position of having their cake and eating it. The T.N.C. can effectively “put a gun to the heads of national governments”,⁶¹ threatening to relocate if concessions to its agenda are not met, effectively bribing government into relaxing labor, trade and environmental protections against the wishes of the electorate.

⁶⁰ Oatley, Thomas. 2008 : 37

⁶¹ Monbiot, George. 2000 : 84

Given this study's concern with the fundamental sovereign functions of the state, one of which is the protection of the rights and well-being of citizens who reside within its borders, a particularly relevant example of the de facto autonomy of T.N.C.s is their involvement in the establishment of the North Atlantic Free Trade Agreement (N.A.F.T.A.). Far from merely signing up to and abiding by democratically mandated government policy, T.N.C.s were intimately involved in the framing of the directives of the agreement of which they themselves have been the beneficiaries. Imagine the improbability of us as individual citizens being invited into the heart of the treasury to advise on personal income tax codes.

Much has been written on the detrimental effects of the N.A.F.T.A. on employment in the U.S. and of the flight of U.S. companies across the Mexican border. Less publicized, perhaps, are the far reaching consequences of some of provisions of the N.A.F.T.A. and the disturbing level of litigious power corporations have carved out for themselves. Through a massive lobbying effort, under N.A.F.T.A. rules T.N.C.s have won the right to sue a foreign government if they can establish that a regulation or government decision adversely affects their investments.

A report by the global trade watch dog, *World Trade Watch*, revealed that in the first ten years of the N.A.F.T.A.'s existence, in excess of 13 billion dollars compensation has been paid to companies by national governments for activities that could be described as normal regulatory activity in the public interest.⁶² In essence, large T.N.C.s wrested from government the right to compensation if found to be endangering public safety with their products and forced to stop, representing "an extraordinary attack on government ability to regulate in the public interest".⁶³ A particularly surreal example is that of the Canadian outfit Methanex, a petrochemical conglomerate whose gasoline additive MTBE was banned in the state of California as it had begun to contaminate the ground water supply. Methanex responded by citing N.A.F.T.A. and proceeded to sue the state of California for almost 1% of its annual budget in compensation for loss of earnings.⁶⁴ All in all, the larger T.N.C.s have proved themselves to be formidable actors in law making settings and when "acting through trade

⁶² www.citizen.org. 2001 : 25

⁶³ Ibid. : 27

⁶⁴ De Palma, Anthony. 2000 : New York Times, March 11th

associations.... T.N.C.s can direct the substantive outcome of decision making by states".⁶⁵ David Bederman in his work on transnational governance describes these powerful entities as shadow market governments that are the nongovernmental manifestation of the market state and "engage in many of the activities and functions that we associate with the traditional nation state: market making and regulation, intelligence gathering and even self-defense in the form of corporate security units".⁶⁶ In other words, far from being a compliant subordinate of the state, T.N.C.s enjoy an increasingly independent existence, operating parallel to the state system rather than within it.

As we shall see later in relation to the private military industry, evidence of effective control of T.N.C.s under international law that matches their extensive transnational activities is hard to come by, and remains a conveniently grey area. There are soft law instruments that try to impose human rights obligations, such as the 2003 U.N. sub commission on promotion and protection of human rights, but again it remains in the realm of de jure control as they are not legally binding.⁶⁷ Indeed, it is the considered view of the *Indiana Journal of Global Legal Studies* that "multinational corporations are very limited subjects of international law, do not have legally binding human right obligations",⁶⁸ and do not face the prospect of such in the near future.

The fantastic wealth of the biggest T.N.C.s also buys a lot of good old fashioned political capital in the corridors of power, providing access to and major influence on the formal political process, often corrupting its legitimacy. The almost incestuous nature of the relationship between the Bush administration and the oil industry is well documented, and in more general terms, as George Monbiot observes, "The ability of T.N.C.s to infiltrate government and influence legislative policy in their own commercial interests is staggering".⁶⁹ In this process there is no better example than the lobby system of the U.S. Congress. Recent incidences include the oil and gas lobby push to have drilling exploration rights restored in Alaska. Although the first tentative steps towards universal health care in the U.S. have only recently been taken, it is an objective that has been supported by the majority of Americans

⁶⁵ Bederman, David J. 2008 : 209

⁶⁶ Ibid : 210

⁶⁷ Hallo De Wolf, Antenor. 2006 : 325

⁶⁸ Ibid

⁶⁹ Monbiot, George. : Guardian Newspaper, Sept 30, 2008

for decades and one successfully stymied by the lobbying power of large pharmaceutical and health insurance companies. As recently as April 2012, the Obama administration's modest gun control measures were shot down in the U.S. Senate by forty five mostly republican senators, forty two of whom were in thrall to gun money, all having received donations from fire arms lobbyists.⁷⁰

When their market position or profit margins are threatened, T.N.C.s have clearly been successful in attaining increasing autonomy of action through infiltration of the democratic process. This same autonomy also extends to the sphere of criminality, an arena in which T.N.C.s has been able to act with increasingly impunity, and seeming immunity from laws to which the rest of us are subject. High profile examples include the B.C.C.I.s laundering of billions of dollars in drug money for the Colombian cartels at the height of the F.A.R.C. insurgency,⁷¹ to the vigilante harassment, intimidation and even murder of native opposition group members in the Niger delta at the behest of international oil giants, Shell and Chevron.⁷² T.N.C.s also tried their hand at military intervention, most notably in Central America where agri-business employed the services of mercenaries to destroy the leftist land reform movement.⁷³

These kinds of actions rarely result in anything more than condemnatory rhetoric from national governments and indeed were often done in concert with those same authorities in the interests of political expediency or material gain. On the limited occasions that criminal prosecutions have made it as far as a court room, the vast resources of the T.N.C.s have ensured that proceedings become bogged down in litigation for years and sometimes decades. The disaster at the Bhopal Chemical plant in India in 1984 is a shocking case in point. After almost 20 years of protracted litigation, the 1996 manslaughter conviction of six key defendants was eventually reduced to negligence while the former C.E.O. of the responsible T.N.C., Union Carbide, continues to evade justice as the U.S. refuses to extradite him to face trial in India. As campaigning journalist Gopal Krishna of *Outlook* magazine eloquently observed of the trial proceedings, "It appears to be a case of turning governmental

⁷⁰ Simon, David. 2013 : Guardian Newspaper, April 18th

⁷¹ Scott, Peter dale and Marshall, Jonathan. 1998 : 67

⁷² Adejumobi, Said. 2005 : 248

⁷³ Campbell, Bruce and Brenner, Arthur, D. 2000 : 6

institutions into an instrument that can destroy life and life support systems for profit and get away with a mild rebuke".⁷⁴Bhopal is just one of the most egregious examples of transnational corporation's relative impunity from the democratic systems of accountability that serve to further underline their autonomy from the state. This is a theme that will come into sharper and more detailed relief when we later come to analyze the state's relationship with our T.N.C. case study, the private military industry.

As satisfying as it may be for the transnationalist theorists to thrash the corporate sector by pointing out the darker side of its modus operandi, that has not been the primary objective of this chapter. Rather it is to drive home the reality of the yawning gap that exists between de jure control by the state of T.N.C.s and their de facto autonomy. The evidence outlined makes a nonsense of Krasner's belief that the actions of T.N.C.s remain effectively under the auspices of the state.

To give a sense of the scope of the contemporary transnational corporation the following table summarizes its global reach and wide ranging interests, with particular emphasis on the area which concerns us most, the prosecution of warfare. It reveals how integral transnational corporations, whether in the realm of manufacturing of arms, services or reconstruction, are to the modern execution of lethal force.

⁷⁴ Krishna, Gopal. 2010 : Outlook Magazine, June 7th

Table 1.0: Private Industry and the Conduct of Warfare

Global Role of T.N.C.s	Related activities	Contemporary examples
Direct military supplier	Arms, weapons systems, soldiers, military vehicles, aircraft	Lockheed Martin, British Aerospace, General Electric in Iraq, Afghanistan, Pakistan
Private military contractor	Privately trained combat soldiers, ancillary staff	Blackwater, Dynacorp in Iraq
Services supplier	Food, uniforms, maintenance, entertainment, health care	Haliburton, Iraq, Afghanistan
Direct and indirect investment	New business, existing ailing enterprises, reconstruction projects, infrastructure development, resource exploitation	Almost all post-conflict environments and some conflict environments
Reconstruction	Reconstruction and development contracts	Haliburton in Iraq
Private security provider	Security personnel for agency headquarters, international organizations, government institutions, NGOs, V.I.P.s	Blackwater, C.A.C.I. International, Dynacorp
Criminality	Illegal arms sales, corruption, smuggling, human rights abuses	Matrix Churchill, CACI International, Sandline International, Titan Inc.
Criminality facilitator	Money laundering	B.C.C.I. in Columbia
Indirect military intervention	Arming, funding of non-state armed actors in conflict	Agri business in El Salvador, Guatemala
Terrorism	Criminal P.M.C.s , funding of terrorist mercenaries	Angola, Sierra Leone, Niger delta
Political Lobbying	NAFTA, WTO, US Congress	Watering down of labour laws and environmental protections

As we can see from the table, a particularly problematic sphere of activity in which T.N.C.s operate is the manufacture of arms, a process that has decidedly moved from the public to the private sector in the last forty years.⁷⁵

Although “during the cold war there was a trend towards increasing privatization of productive capacities”,⁷⁶ this process has accelerated spectacularly in recent years with the explosion of outsourcing and privatization. About 90% of the world's arms are now manufactured by private companies and in modern warfare; corporations supply everything from weapons systems to military T.V. dinners. T.N.C.s are also a huge supplier of materials and expertise in reconstruction efforts after conflict. In short, nothing gets bombed or rebuilt without the involvement of T.N.C.s.

Having attained such a dominant position in the business of war, here again T.N.C.s have been able to act with relative impunity, violating the regulatory system of the arms trade to maximize profits. There are countless cases of T.N.C.s illegally flogging arms to proscribed and dictatorial regimes, from the Matrix Churchill Affair and Irangate to the Arms to Iraq inquiry, often with the witting or unwitting connivance of the state.

In the light of such developments in the arena of supply and manufacture, perhaps it was only a matter of time before transnational corporations went a crucial step further by actually supplying the military manpower as well as the military hardware. It is to this relatively new development in the relationship between transnational corporations, the sovereign state and the prosecution of warfare that we now turn our attention.

⁷⁵ Bailes, Alyson, Scheneckener, Ulrich and Wulf, Herbert. 2007 : 1

⁷⁶ Ibid

Part Two; Rise of the Private Military Industry

From Dogs of War to Multi-Billion Dollar Industry

This chapter represents the final phase of our academic journey from the general to the particular, from non-state actors, through transnational corporations, to the private military industry. Though the activities of private military firms on a worldwide scale are a relatively recent phenomenon, reliance on hired guns is as old as the history of warfare itself. As far back as the Bronze Age the Egyptians contracted Greeks and Nubians to do their violent bidding while it was mercenaries that wrenched Jerusalem from the Romans during the sixth crusade.⁷⁷ Indeed, up until the 19th century the raising of private armies was the norm, while conscription remained quite rare. The advent of standing armies employed on a permanent basis is every much a nineteenth and twentieth century phenomenon, influenced by two pivotal factors.

The first factor relates to the advances of the industrial revolution that produced more sophisticated military hardware and reduced reliance on huge infantry numbers that had fought the brutal wars of the past. After a century of diminishing infantry numbers it would take a war of the proportions of World War One before such vast numbers of bodies would again be seen on the battlefields of Europe. A second important factor was the consolidation of the Westphalian state system which cemented state control over a variety of functions, including the effective raising of revenue which endowed states with the financial wherewithal to create large state funded institutions such as national armies.⁷⁸ As the 19th century came to a close, all major states in the international system had begun to raise and maintain standing armies, as opposed to temporary mercenary outfits, to protect their perceived national interests.

Though the direct use of mercenaries declined sharply from the 19th century until after the second World War,⁷⁹ the relationship between private industry and the state in relation to war remained a strong one, largely confined to the realm of procurement, supplies, munitions and services, and which

⁷⁷ Singer, Peter. 2003 : 21

⁷⁸ Ridlon, Captain, Daniel P. 2002 : 211

⁷⁹ Singer, Peter. 2003 : 248

grew steadily in the post war period until the relationship took an unprecedented contemporary turn with the rise of P.M.F.s.

After a partial hiatus of almost two centuries, the post-war period saw a resurgence of mercenary activity, particularly in Africa where rapid decolonization had created a string of weak African states often largely at the mercy of insurgent groups that were quick to hire help if given the resources.⁸⁰ Though as Kevin O'Brien points out in *An African Dilemma: Private Military Companies and African Security 1990- 98*, the "majority of mercenaries in the Cold War period were loosely organized bands of mercenaries who fought in civil wars and localized conflicts",⁸¹ the period also saw the emergence of less ad hoc arrangements that constituted the early prototype for the contemporary private military company. Perhaps the best example would be the covert machinations of the British in Yemen in the late 1960s. David Sterling, a former SAS member and British foreign secretary, gained valuable experience from the use of ad hoc mercenaries as part of British operations in the region, which he put to lucrative use with the establishment of Watchguard International in the Channel Islands in 1967.⁸²

Since that era, the privatized military industry has grown in fits and starts before truly coming into its own in the 1990s. One of the first private military outfits to come to international prominence was the South African company, Executive Outcomes (E.O.), largely composed of ex-soldiers from the notorious South African Defense Force.⁸³ In a reversal of an earlier trend in Africa where mercenaries were hired by insurgents, it was the Angolan government who first contracted E.O. in their civil war struggle with rebel forces. According to Captain Daniel P. Ridlon, "their aid was a critical element in the Angolan government's victory".⁸⁴ It was successes such as these that alerted governments to the potential usefulness of private military contractors as a foreign policy tool. Another important point about the Angolan experience of Executive Outcomes was the nature of its role. Todd Millard, author of *Overcoming Post-Colonial Myopia: A Call to Recognise and Regulate Private Military Companies*

⁸⁰ Fatau, Musah; Abdel and Kayode Fayemi. 2000 : 35

⁸¹ O'Brien, Kevin. 2000 : 43-46

⁸² Mathieu, Fabien and Dearden, Nick. 2007 : 745

⁸³ Ibid. : 746

⁸⁴ Ridlon, Daniel P. 2003 : 216

found that E.O. exceeded their official remit of supplying materials and training and became directly involved in several battles.⁸⁵ This assessment points to an important evolution in the relatively short lives of modern P.M.F.s, in which they moved decisively from ancillary and training services to front line activity becoming, in a very real sense, private corporate armies. This historical narrative prompts two important questions, vital to a complete understanding of the context in which the private military industry has thrived to the point where, as an N.S.A., it credibly challenges the sovereign integrity of the state.

What were the factors and conditions that facilitated the rise of the industry from a largely covert presence in the 1960s and 1970s to a multi-billion pound industry, and a seemingly indispensable part of modern warfare? The second and perhaps even more crucial question with regard to the central concerns of this thesis involves the precise nature of these entities. How does the emerging private military industry differ fundamentally in its relationship with governments and the state from the mercenary arrangements that have prevailed through history?

Both issues are bound up with the political and economic philosophy that held sway in the closing decades of the twentieth century and the processes that flowed from it. Crucially these issues also speak to a wider truth about the contemporary nature of N.S.A.s more generally, and their evolving relationship with the state. It is to an examination these two pivotal questions that we must now turn.

⁸⁵ Millard, Todd. 2003 : 175

A Perfect Storm: PMF Take Off in the Post-Cold War Era

As we established earlier, the concept of mercenaries is as old as warfare itself. It was, however, only late in the Cold War period that the activity began to take on the formal trappings of an actual industry. Through the 1970s and early 1980s, the industry remained a marginal one and represented a tiny fraction of global military capacity. Yet, less than fifteen years later, the private military industry had been transformed into a multi- billion pound industry operating in conflict zones across the globe, in the employ not just of African insurgents, or as squalid civil war participants, but on the front line, in the military of the world's only super power. In the Gulf War of 1992, P.M.F.s were a minor player and largely confined to their initial roles as service providers. Yet by the time Bush junior invaded in 2003, a staggering 20.000 private military personnel from more than 60 different firms were engaged in overt military functions. In his Geneva policy Paper, *The Private Military Industry and Iraq: What We Have Learned and Where To Next*, renowned P.M.F. scholar, Peter Singer, places this speedy development in startling context. "Such numbers mean that the private military industry has contributed more forces to Iraq than any other member of the U.S.-led coalition, being nearly equal to all the states excluding the U.S. combined".⁸⁶ The same can be said for casualties, with P.M.F. combatants killed in greater numbers than all of the U.S. coalition allies combined.

Such exponential growth has been a huge boon to the transnational corporations that provide such services. Perhaps the most famous (or infamous considering the ongoing lawsuit against them for fraudulent billing) of these is Haliburton who have to date made "roughly 2.5 times what it cost the U.S. government to fight the entire 1991 Persian Gulf War".⁸⁷ As with any marked but complex phenomenon, the factors that account for the meteoric rise of the private military industry are multiple and it has been their confluence at particular point in history that has created a perfect storm, thus facilitating such a startling growth rate. The most momentous event of this era was, of course, the ending of the Cold War, which had a profound impact on so many political and military realities. It led to a transformation in the priorities of the western alliance and subsequent disengagement from a host of countries and regions heretofore considered areas of critical national security. Countries that had

⁸⁶ Singer, Peter. 2007 : 4

⁸⁷ Ibid : 5

been content to rely on superpowers to the east and west for not only their security but also military training and personnel were increasingly forced to turn to the private sector. This is particularly true of the more newly minted nations that came into being with the rapid decolonization processes that followed the ending of Second World War. They had little in the way of established military and security infrastructure and had only relatively recently created their own national standing armies. On the other side of the equation, the Cold War resulted in disarmament and an increasing pool of available skilled personnel looking to ply their trade in the private sector. It was this “simultaneous increase in both supply and demand that helped lead to a rapid growth of P.M.F.s”.⁸⁸

Such changes were not simply confined to erstwhile third world allies of the ideologically opposed superpowers. With the ending of the Cold War, the professional armies of the western allies were also subject to downsizing as maintenance of huge standing armies were much harder to justify with the demise of the Soviet threat. In addition, the nature of security was changing significantly. As global instability has grown warfare has become messier and more unpredictable. For both these reasons, standing armies have become more reliant on outsourcing military services. As Peter Singer points out, the most advanced militaries are increasingly reliant on off- the-shelf commercial technology which is often maintained and operated by private firms”.⁸⁹

Another key factor, and one which will become particularly relevant when we later come to discuss the implications for the role of the state in insuring democratic accountability for government sponsored actions, is the normative rise in privatization. This is something we have traditionally associated more with the domestic economy but as Laura A. Dickenson, associate professor at the University of Connecticut School of Law points out, “privatization is as significant in the international realm as it is domestically”.⁹⁰ In the last 30 years or so, with the dominance of neo- liberalism, there has been a concerted push for the privatization of functions heretofore considered not only the preserve but also the democratic responsibility of the state, from education to the provision of

⁸⁸ Ridlon, Captain Daniel P. 2003 : 215

⁸⁹ Singer, Peter. 2003 : 8

⁹⁰ Dickenson, Laura, A. 2006 : 138

healthcare, from prisons and policing to forests and fisheries, which has more recently extended to the field of warfare.

It has been a coincidence of all these factors that have led to the emergence of the private military industry as both a major corporate player in terms of general size and financial resources and a particularly relevant non-state actor with regard to the role of the state in the execution of one of its fundamental public functions, the legitimate use of force.

In relation to our thesis proposal, the presence of mercenaries in the past as opposed to private military companies in the present may reveal something significant about the nature of the states in which mercenaries operated in the past and in which PMFs operate now. As was noted at the beginning of this section, the employment of mercenary armies was commonplace in Europe up until the 19th century. It was an era when conscription and standing armies were almost unheard of because the then nescient nation states lacked the sovereign authority, infrastructure and funding to maintain permanent armies. It was only with the strengthening of the Westphalian system that the transition from mercenaries to standing armies took place. Given that the execution of warfare is once again being outsourced even in the most advanced and wealthy states on the planet, it is not unreasonable to suggest that the root cause might well be the same as before, that is to say inherent state weakness. If the relationship between the sovereign state and the monopoly on the legitimate use of force were to be placed on a graph it could be drawn as an arc, beginning at its lowest point with early development of the Westphalian system in the early eighteenth century to its apex in the mid twentieth before registering a gradual decline as new and unprecedented challenges of the late twentieth century and early twenty first century begin to reverse the balance away from the state once again.

Comparison between 18th century mercenary armies and the contemporary private military industry, in relation to the approach that the state takes towards military provision and the use of force, is useful in highlighting possible correlation in terms of the waning state authority. However, that is not to concede that the mercenary armies of yore and P.M.F.s of today are simply two sides of the same coin. To further the credibility of transnationalist theory it must be firmly established that, despite self-evident similarities between ancient mercenary armies and contemporary corporate security giants of today, the latter does not simply represent a direct continuation of the former. Demonstrating that the private military industry, in some crucial aspects, is a new phenomenon intimately tied to specific

processes unique to the late twentieth century, such as the expansion of T.N.C.s and the prevailing economic and political ideology, that speak to wider truths about the threat that contemporary N.S.A.s more generally pose to state authority, is central to transnationalist claims about the increasing sovereign deficit of nation states. And it is this question of the uniquely contemporary nature of the private military industry that we now must turn our attention.

PMFs: Not Just Something Borrowed, But Something New

In this section we will examine the private military industry as a distinctly modern phenomenon, proposing the argument that in its most crucial aspects it is a horse of a very different colour from mercenaries of old, and very much a product of late twentieth century processes. Establishing this as a point of fact is a necessary prerequisite to understanding the role of the industry as a prime example of an unprecedented challenge that such new, more virulent and uniquely contemporary non state actors pose to the sovereign integrity of the nation state.

Charting the history of mercenary activity in the previous section we found undoubted similarities between the mercenaries of old and the modern private military companies. (the most obvious being that both are essentially guns for hire) As Captain Daniel Ridlon points out, modern private soldiers do indeed “represent the latest evolution of the mercenary industry and have developed historically from the mercenary tradition”.⁹¹ However, in terms of aspects such as modes of operation, corporate structure and their relationship with the state, that are central to this thesis, contemporary P.M.F.s bear little relation to their 18th century forebears

Even a cursory glance at the activities of ancient mercenaries, compared to the way P.M.F.s operate today, reveals some very crucial differences between the two. Undoubtedly states have long made use of forms of private security and indeed private armies come to that, but in *Privatization of security and Military Functions and the Demise of the Nation State in Africa*, Michelle Small introduces the crucial caveat that “these were largely ad-hoc, covert, transient groupings that, having served a certain purpose dissipated as promptly as they were formed”.⁹² The profile of the modern private military firm could hardly be more different. These new companies operate openly in the global market and have become permanent features on the corporate landscape. Given the inherently negative connotations that the concept of the mercenary conjures up for the average citizen, individual governments who use them also have a vested interest in making a clear distinction between P.M.F.s and traditional mercenary activity. That is not to say, however, that the lines they draw, do not have a certain validity. Though utterly self-serving, governments would cite several legitimate reasons why

⁹¹ Ridlon, Captain Daniel P. 2003 : 209

⁹² Small, Michele. 2006 : 3

they would not equate P.M.F.s with mercenary activity. As Newell and Sheehy point out, it is corporations rather than individuals that provide security and that the “hallmark of a mercenary – combat for Sale is not shared by the majority of P.M.F.s as only a small number provide actual combat services”.⁹³ These examples illustrate a fundamental point that sets modern P.M.F.s completely apart from the traditional mercenary, and that is their relationship with governments and by extension the state.

There are two key features in this respect. The first is the attitude of the state towards such entities. As we have seen in recent years, the operation of P.M.F.s in the field and their accounting practices may leave a lot to be desired but in the crucial area of bagging government contracts the competence of P.M.F.s is second to none. Through refined marketing techniques, well financed lobbying, and slick business practices they have presented themselves, and more importantly, have come “to be viewed as professional corporate partners”.⁹⁴ This relationship is a far cry from the Romans temporarily raising a rabble army to quell some troublesome outpost of the empire, and then sending them on their merry way with wine, women and song.

All of these points bring us finally to *the* key distinction that marks out modern P.M.F.s from traditional mercenaries, and that is political ideology. This issue was touched on in the previous section on the rise of the industry and is central to the debate on the monopoly of force that will be explored in detail in the final section of the thesis. For now, however, it is necessary to establish the importance of ideology in marking out the private military industry as a uniquely late twentieth century phenomenon that has potentially far reaching consequences for the relationship between N.S.A.s, de facto state integrity and democratic accountability.

In the days of old, a mercenary outfit was called upon to achieve certain aims that the state was unable to complete itself. The revival of so called mercenaries in the form of the private military industry seems to presage a rerun of this medieval recourse to private force. There is, however, one crucial difference. This time round it is not just a matter of occasional necessity, (and to be sure there are many reasons why western governments deem it necessary to employ such forces) but of

⁹³ Newell and Sheehy. 2006 : 70

⁹⁴ Ibid

ideological desirability. The rise of the private military industry is inextricably linked to neo-liberal economic policy, itself a response “to the notion that states can be inefficient market actors, or otherwise serve as a depressant on global economic enterprise”, the remedy for which was wholesale private sector involvement and the almost fetishistic obsession with outsourcing.⁹⁵

In the most recent Iraq war, the private military industry made a truly quantum leap, comprising a much higher percentage of the occupation forces than in any previous conflict. It is revealing that Donald Rumsfeld, neo-con in chief in that particular conflict, has had privatization of the military as his default position going back to the Reagan administration when he also served as secretary of Defense. Rumsfeld was of the opinion that any government function that could be privatized should be.⁹⁶ Under his influence, the Reagan administration initiated a process whereby “two critical sectors of the U.S. national landscape, security functions and intelligence collection and analysis, went under the microscope for possible privatization”.⁹⁷ This trend was continued and indeed accelerated by subsequent administrations. It was clearly only a matter of time before frontline battlefield duties were also outsourced to the private sector in the form of private military contractors. Unlike the Romans convenient temporary arrangement, this signifies an incremental and progressive privatization of state security functions. In short, it represents a new phenomenon, what Michelle Small describes as “an actual process rather than just being a form of private force”.⁹⁸ Therefore, to see the rise of the private military industry as merely a logical progression of the mercenary tradition of old is to miss the bigger and far more ideological picture.

The development of the private military industry is part of a wider, wholesale political and economic sea-change, engendered by neo-liberal philosophy that has affected and infected the competence of governments to administer and retain control of a whole range of state functions of which security and defense is simply the most egregious, because of its fundamentality to our broad

⁹⁵ Nagen and Hammer. 2008 : 434

⁹⁶ Ibid : 435

⁹⁷ Ibid

⁹⁸ Small, Michelle. 2006 : 159

understanding of one of key concepts of sovereignty, that of defense of the realm and its citizens as the first duty of the state.

As Professor Richard Falk emphasizes in *Interpreting the Interaction of Global Markets and Human Rights*, neo-liberalism does not merely set out to renegotiate the relationship between citizens, the state and the private sector but is dedicated to a definitive realignment of power where “The neoliberal ideological climate of opinion indicates the social disempowerment of the state, shifting supposed responsibility for human betterment increasingly to the private sector”.⁹⁹ Taken in conjunction with globalization, neo liberalism, supporting and being supported by an increasingly powerful set of transnational organisations has set about creating a system of global economic governance “at once far more powerful than the United Nations and organized in a manner even less representative of the peoples of the world”.¹⁰⁰ Transnational corporations and more specifically P.M.F.s are but one entity in this array of N.S.A.s that forms a nexus of alternative power to the state.

The private military industry as a powerful non-state actor has thrived in such a milieu and indeed is integral to it. This is of far more relevance and consequence to our thesis hypothesis than the superficial similarities the industry may share with mercenary armies of the middle-ages. It is in this broader, more ideological sense that the private military industry should be understood, not just as something borrowed from history but rather something very contemporary and with potentially profound consequences for one of the pillars of sovereign legitimacy, the monopoly on the legitimate use of force.

The obvious and oft cited counter argument to this proposition is that whatever ones view of neo-liberalism, it is a legitimate policy route of democratically elected governments, and not somehow a subversion of the sovereignty of the nation. It is, however, perfectly possible for decisions taken by democratically elected governments to lead to a weakening of the principles of sovereignty and the democratic institutions that helps to underpin such principles. There is no greater example of just such a process than that of European integration. One of the few things upon which most European politicians and citizen would agree is that the process of European integration has diminished national

⁹⁹ Falk, Richard. 2002 : 45

¹⁰⁰ Ibid. : 46

sovereignty of its member states.¹⁰¹The second thing that many would agree on is the fact that a democratic deficit has grown up around the integrative process. The fact that it has been voluntarily entered into, and the relative merits of the trade-off between pooled sovereignty and multilateralism are not issues that directly concern us here. The reference is made merely to illustrate the point the decisions taken in a legitimate democratic environment do not always enhance democracy or preserve the sovereign integrity of that same democratic state.

To accept this truism is a necessary though not sufficient prerequisite for at least entertaining the transnationalist proposition that contemporary non-state actors, be they transnational corporations or regional integrative institutions, nourished and strengthened by the voluntary actions of legitimate democratic nation states have morphed into Frankenstein-esque entities that threaten to overwhelm the very entity (the state) that was instrumental in unleashing their power in the first place.

In the final section of our case study, using the private military industry as our example, we examine to what extent this process can actually be said to have become a tangible reality by restricting the ability of the state to effectively execute one of its key sovereign functions, through circumvention of mechanisms of democratic accountability and oversight that give practical effect to the sovereign ideal.

¹⁰¹ McCormick, Neil. 2001 : 126

Part Three; The Use of Force and the Privatization of Warfare

In the first parts of our case study, certain key premises needed to be firmly established before proceeding to examine P.M.F.s in detail. These included outlining the de facto autonomy of transnational corporations and circumstances which gave rise to the expansion of the private military industry. In the case of PMFs, their ability to speak to a wider truth not only about others T.N.C.s but about the nature of contemporary NSAs generally and the particular milieu they inhabit also had to be confirmed. To this end, it was necessary to place P.M.F.s firmly in a contemporary context as a distinctly late twentieth century phenomenon and an integral part, along with others N.S.A.s, of much wider process of political, economic and ideological change.

It is only having established these prerequisites that we could confidently proceed to examine the specific role that P.M.F.s play in this process and its relevance to our wider thesis proposal.

These will be explored by analyzing the effect that P.M.F.s has on the monopoly that the state has traditionally enjoyed over the legitimate use of force. Its violation by PMF activity will serve as an example of increasing non-state actor power, which in early twenty first century, neo-liberal, transnationalised market setting, increasingly usurps sovereign power, and in doing so bypasses democratic systems of accountability for actions taken in the name of the state.

Legitimate Use of Force: Violating the Monopoly in Principle

Since the days when nescient sovereign states replaced kings and princes as the arbiters of power in the international system of the 16th century, the states monopoly on the legitimate use of force has remained an abiding core principle. In terms of formal decree this principle can be traced back to the English Bill of Rights in 1688 which outlawed private armies, decreeing that “Raising or keeping a standing army within the kingdom in time of peace unless it be the consent of Parlyment is against law”.¹⁰² Although imperfectly upheld, as witnessed by the perennial existence of insurgent groups and violent factions, “since the peace of Westphalia the state has been at the centre of military power and nearly exclusive protagonist in matters military”.¹⁰³ Thus the state monopoly over the legitimate use of violence has come to be viewed as one of the defining characteristics of the sovereign nation state.

In the modern era renowned sociologist and philosopher Max Weber is most closely associated with the annunciation of this sovereign principle. Weber was of the opinion that sovereign state is one entity that upholds the claim to the legitimate use of force in the enforcement of its order. Interestingly, as it alludes to a central point to be explored shortly with regard to regulation, Weber does not explicitly exclude the use of private force, with the crucial caveat that its legitimacy is derived from the state,¹⁰⁴ a good example of which would be the principle of self-defense.

The whole concept of the monopoly over the legitimate use of violence is based on two fundamental concepts of sovereignty. Firstly, it acts to underpin the international legal system in terms of how the legitimacy or otherwise of violent inter-state conflict is to be determined. According to Newel and Sheehy in the *Texas International Law Journal*, this premise also relates to internal sovereignty and the control the state exerts over its territory. This second dimension refers to the states duty to protect the individual rights of citizens who reside within its territory, and who willingly give their allegiance to that sovereign entity. It is a duty “that is hard to fulfill without a monopoly” on the use of force.¹⁰⁵ This concept of sovereign monopoly power has been enshrined in international law

¹⁰² Newell and Sheehy. 2006 : 69

¹⁰³ Ibid

¹⁰⁴ Weber, Max Politics as a Vocation. 1947 : 2

¹⁰⁵ Newell and Sheehy. 2006 : 70

throughout much of the twentieth century. One of the critical problems with P.M.F.s in relation to this overarching principle is that the private use of force by these entities cannot be easily reconciled with the concept of state monopoly and when, as we shall demonstrate in the next section, they are unaccountable they represent a threat to the state based system of international law.¹⁰⁶

The concept of a fundamental sovereign state preserve with regard to the use of force, or any other key functions, is not simply an academic abstraction but goes to the heart of the legitimacy of state institutions of governance and the consent of the citizen to be so governed. In other words, true legitimate sovereign power is not automatically assigned to a state by virtue of its mere existence but “refers to the recognition and authorization of persons or institutions competent to make governance decisions, from policy determination, to economic decisions to the waging of war”.¹⁰⁷

As shall be elucidated shortly, P.M.F.s are an instructive example of where this connection between the decisions about the use of force, and its legitimate authorization by accountable institutions of the state, has become tenuous at best and non-existent at worst. In terms of wider truths about the growth of non-state actors as alternative sources of unaccountable power to the weakening sovereign state that this case study tries to speak to, it can be argued that other N.S.A.s inhabit the same space as P.M.F.s at the heart of sovereign decision making and reign over other key competencies heretofore also the exclusive preserve of the publically accountable sovereign state, be it the conditionality policies of the I.M.F. that infiltrate economic policy or the strictures of the W.T.O. that take trade decisions out of the hands of elected domestic parliaments. P.M.F.s are but one of a range of increasingly powerful N.S.A.s that each takes a slice of the action as regards the state’s public functions, death by a thousand cuts as it were.

In the realm of the legitimate use of force as with any other key state function, sovereign power can only truly legitimize itself through the constitutive process which involves what Professor Michael Reisman describes as “decisions about decision making”.¹⁰⁸ In others words, who and with what qualifications and form of selection is competent to make which decisions. When this constitutive

¹⁰⁶ Ibid : 69

¹⁰⁷ Nagan and Hammer. 2008 : 453

¹⁰⁸ Reisman, Michael W. 1981 : 8

process, these decisions about decision making, normally the preserve of the publicly accountable legislative and judicial institutions of the sovereign state are ceded to unaccountable non-state actors, the nexus of decision making power is shifted decisively to private entities that by their very nature are not subject to anything like the same public scrutiny. The legitimacy of sovereign power and its ability to maintain effective control over key functions of the state are severely compromised. The repercussions for the constitutive process are potentially grave when they are given practical expression, when “political leaders are able to operate outside norm-generating forces including public scrutiny, government oversight and domestic and international law”.¹⁰⁹

In the next chapter we will examine the practical consequences of the corruption of these processes, where the state by allocating to private military firms the power to engage in the execution of force for money effectively “turns the constitutive process on its head”.¹¹⁰

¹⁰⁹ Nagan and Hammer. 2008 : 433

¹¹⁰ Ibid. : 446

Legitimate Use of Force: Violating the State Monopoly in Practice

In the previous section we examined the enduring concept of the state's monopoly on the legitimate use of force and how it has been underpinned by two basic sovereign principles one concerning national control and the other based on international law. We established that sovereign power is inextricably linked to the legitimacy of the democratic institutions from which this power is derived, as authorized by citizens.

In this final section of the thesis we move from principle to practice and examine the ways in which P.M.F.s activity on the ground and the conditions of relative impunity in which it operates undermines the states monopoly on the legitimate use of force and through this process erodes the sovereign control the state exerts through weakening the so called constitutive process upon which legitimate sovereignty rests.

To this end, three aspects of P.M.F. activity will be examined. We will begin with an analysis of how the employment of P.M.F.s, their relative de facto impunity and their opaque status take effective political oversight and accountability for their actions beyond the reach of the sovereign, creating nexus of alternative private power. This section will also try to achieve an understanding of why regulation has failed and how it is connected to the process of N.S.A. empowerment. The second aspect to be investigated concerns the wider context of the environment in which P.M.F.s operate which is closely connected to themes introduced in earlier chapters such as the normative rise of privatization and the de facto autonomy of T.N.C.s which become of central relevance here as we examine how the conduct of warfare is increasingly taken out of state control, through the transnational power of the market.

The final aspect concerns the relationship between the private military industry and other non-state actors and how their empowerment is facilitated by the activities of P.M.F.s at the expense of both the states monopoly on the use of force, and its sovereign authority in general.

1. PMFs and the Illusion of Regulation

In March 2004 in Iraq, four private security guards of US nationality were ambushed on the outskirts of Fallujah while guarding a convoy of supply trucks. They were executed, and their bodies mutilated and burned, before being strung up from a bridge at the edge of the city. Splashed across the news channels around the globe, it remains one of the most grisly and high profile episodes of the ill-fated Iraqi invasion.¹¹¹ It was the first time that the concept of private military personnel and their increasing role in the Iraqi invasion entered the consciousness of the average viewer. Since then, the proliferation of their use on the battlefield and a stream of subsequent incidents has raised serious question about the degree of control sovereign states exercise over these non-state actors, and how accountable they really are.

In relation to these issues, it is perhaps the private security firm Blackwater that has attracted most attention due to its controversial involvement in Iraq. Founded in 1998 by former navy seals and based in a lavish military complex in North Carolina, Blackwater is one of the fastest growing private military outfits operating today. According to its own P.R. it has prepared tens of thousands of private security personnel for active duty in hot spots across the world. Having been subjected to persistent criticism, almost from the beginning of its involvement in Iraq, for the overly aggressive behavior and professional misconduct of its personnel, tensions finally came to a head in September 2007 with the shooting dead of seventeen Iraqis. Upon investigation, it was revealed that almost all were civilians and died as a result of indiscriminate gunfire from a Blackwater convoy.¹¹² The Iraqi government, on foot of these events, tried in vain to have Blackwater's contract terminated, but the grey regulatory area that is the private military industry has made it virtually impossible for the Iraqi authorities to hold Blackwater to account for its actions. Earlier that year, the Iraqi government had played its only card, refusing to renew Blackwater's operating license. However most of its operatives have returned under a new guise, that of Triple Canopy, the "new" private military contractor that won the U.S. state department contract in the wake of the dismissal of Blackwater.

¹¹¹ Smith, Martin. 2008 : Frontline, PBS. April 24th ,

¹¹² Von Zielbauer, Paul. 2007 : New York Times, September 7th

The trials and tribulations of Blackwater and the chaos and destruction it has left in its wake very much embodies the contradictions and the anomalies that have plagued the issue of private military provision, and one that is central to the wider argument of this thesis with regard to the relationship of the state with other entities. The fundamental problem is that as non-state actors they not subjected to the same level of accountability as states and though, of course, sovereign states are central in assigning private power to P.M.F.s, “they are not supported by traditional, appropriate sources of authority”.¹¹³ This fundamental contradiction is not merely confined to the corporate military entity but is replicated at the level of the individual private military operative. Though recent efforts have been made to more clearly define the precise status of private military employees, it remains a stubbornly grey area with regard to both domestic and international law. Katherine Holmquist, in her comprehensive report for the Stockholm International Peace Research Institute (SIPRI), *PMCs – The Case for Regulation*, has identified some of the key issues that pertain in this area. They include insufficiently detailed controls, unclear mandates and inadequate vetting procedures as major problems requiring strong regulation. There is also a need for individual nations at governmental level to develop willingness to take responsibility for the actions of P.M.F.s internationally.¹¹⁴ Conventional state forces are subject to a whole range of military and legal procedures in term of accountability and competence. A military officer is constrained by processes of domestic law enacted by sovereign authorities, and by international regulations that have their foundation in a state based system of international law which derive their legitimacy from treaties negotiated and enacted by sovereign states.

P.M.F.s, it seems, lie outside these sovereign derived democratic norms. Furthermore, the activities of traditional military officers can be clearly designated as the responsibility of a particular sovereign state. On the other hand, private military contractors, the personal they employ, and the activities they engage in appear to be the de facto responsibility of nobody in particular. As non-combatants, this seems to be particularly true with regard to Blackwater in Iraq. As military contracting expert, professor Steven Schooner of Georgetown University succinctly puts it, “Currently we have

¹¹³ Nagan and Hammer. 2008 : 448

¹¹⁴ Holmquist, Katherine. 2006 : 29

tens of thousands of armed contractors defending the green zone... but they are not part of the military command structure"¹¹⁵ and therefore in a particularly anomalous position vis a vis established structures of hierarchical command and accountability. Craig S. Jordan for his part observes that as of 2010 not a single P.M.F. operating in Iraq has been prosecuted for violations of international armed conflict laws, and ventures to suggest that "if such a violation occurred it is unlikely that the U.S. would recognize a P.M.F. as acting on behalf of the state".¹¹⁶This is the very epitome of a non-state actor acting outside the realm and effective reach of the sovereign state with regard to the use of force. Experts such as Singer and Holmquist with a deep interest in this topic are not alone in recommending the implementation of a clear code of practice and the construction of a much tighter and more precise understanding of the status of private military personnel on the battlefield.

Indeed, in recent years there have been some ad hoc attempts at enacting regulations, most notably in the US. The Connecticut Journal of Legal Studies, however, is scathing in its appraisal of such efforts describing them as "plagued by loopholes, gaps and lax enforcement".¹¹⁷Furthermore, the limited regulation that does exist is easily circumvented by exploiting the provision of the Arms Exports Control Act whereby U.S. congressional oversight only kicks in when a contract exceeds the 50 million dollar threshold. Large multi-billion dollar contracts are routinely and artificially broken down into bite-size chunks that slide easily the throat of an unwitting congress.¹¹⁸Despite a myriad of acts, statutes and codes that purport to grasp the nettle of P.M.F. regulation, it is quite astonishing how, individually or even collectively, they fail to hit their targets.

The pentagon's contribution comes in the form of the Uniform Code of Military Justice (UCMJ) which in theory takes de jure responsibility for the actions of private soldiers but fails to actively declare jurisdiction over military contractors. In this case, the proof of the pudding is most definitely in the eating and since its inception not a single private contractor has been tried, never mind convicted

¹¹⁵ Smith, Martin. Frontline, PBS, April 24th, 2008

¹¹⁶ Jordan, Craig S. 2009 : 315

¹¹⁷ Jones, Oliver, R. 2008/2009 : 248

¹¹⁸ Ibid : 251

for misconduct under the UCMJ.¹¹⁹ Washington for its part have come up with the impressively titled Military Extraterritorial Jurisdiction Act (MEJA) which in theory allows jurisdiction to attach to “to persons if they engage in certain conduct while a member of the U.S. armed forces or while employed by the armed forces”.¹²⁰ But here again, the devil is very much in the detail. It only applies to crimes carrying a penalty of more than one year, only applies to department of defense employees, and does not apply to non U.S. nationals. For the creative minds of the military/industrial complex, these limitations represent a loophole large enough to drive a whole truck load of private military personnel through unscathed.¹²¹ Unsurprisingly, at the time of writing there had only been a single prosecution under the provisions of the MEJA, which appears to be the exception that proves the rule.¹²²

After over ten years of huffing and puffing on the part of the military and executive establishment in the realm of regulation, P.M.F.s still continue to enjoy almost complete de facto impunity with regard to their activity in the theatre of supposedly sovereign conflicts. The cold reality is that there is no domestic or international system of regulation that targets P.M.F.s as non–state actors or monitors the activities of non-state actors generally, apart from the embryonic International Criminal Court (I.C.C.) which the most powerful nation on the planet has yet to sign up to. Ironically regulation of non-state actors is at its weakest just when “the state appears to have relinquished its monopoly on the use of force”¹²³ to an unprecedented extent, clearly evidenced by massive P.M.F. involvement in conflicts such as Iraq and Afghanistan.

When seeking possible reasons for such resigned ceding of authority and dismal failure to regulate, it stretches credulity to merely cite administrative incompetence, congressional gridlock, or even the lobbying power of P.M.F.s, though all these factors undoubtedly play a part. In trying to achieve an understanding of the more complex, not to say nefarious, reasons why regulation has failed, we must return as always to the dynamics of the relationship between the state and the private military industry not just as a powerful T.N.C. but also as a contemporary N.S.A. In the closing

¹¹⁹ Jordan, Craig S. 2009 : 319

¹²⁰ Ibid : 320

¹²¹ Jones, Oliver, R. (2008/2009) : 251

¹²² Rakowsky, Katerina, L. 2006 : 137

¹²³ Keefe, Patrick, Raddon. 2004 : New York Review of Books : August 12th

comments of the section on P.M.F.s as a twentieth century phenomenon the reader was invited to entertain the possibility that certain N.S.A.s “had morphed into frankenstein-esque entities the threatened to overwhelm the very entity (the state) that was instrumental in their development in the first place”. The private military industry provides a good example of this process.

In recent year states and the administrations that run them, have for their own perceived benefits have been only too willing maintain a convenient ambiguity with regard the status of P.M.F.s

Political and military elites find the services of P.M.F.s a useful tool, and their opaque status a convenient cover, which goes a long way to explaining the abject failure of regulation. However, in doing so, states have entered a devils bargain without realizing or perhaps simply without caring about the long term consequences of handing over de facto power and autonomy with regard to one of the sovereign state’s key functions to private entities, and of becoming overly dependent on their services, a theme that shall be developed in greater detail in the following chapter.

The initial point about the perceived advantage of ambiguity with regard to P.M.F.s is worth exploring in greater detail because, while it may prove convenient for expedient administrations, it has serious consequences for accountability. The example of “Plan Colombia” is instructive of how this dynamic works in practice. In the last 20 years Colombia has risen rapidly up the list of US foreign policy priorities due to its status as a major centre of the international drugs trade. This growing interest culminated in Plan Colombia, a “4.7 billion dollar effort to slash Colombia’s coco production”¹²⁴involving the well-worn tactics of military force and crop substitution. The problem with the strategy is that the U.S. congress has placed strict limitations on what the military can do in support of this objective. Principle among these is the stipulation that the U.S. military should be limited to counternarcotic operations rather than engaging in counterinsurgency.¹²⁵To get around these restrictions what could be more convenient than to employ a private army not subject to the same rules as conventional troops. As De La Garza and Adams reported in the St Petersburg Times “private military assistance can bypass congressional oversight and provide political cover to the White

¹²⁴ Forero, Juan. 2006 : New York Times, August 19th

¹²⁵ Chomsky, Noam. 2000 : 65

House if something goes wrong”.¹²⁶ It is the by now infamous P.M.F., DynCorp, that has been most intimately involved. At the height of plan Colombia it had up to 600 personnel in the country and according to a variety of reports regularly engaged in combat with Colombian rebel groups, an activity expressly forbidden by congress.¹²⁷ P.M.F.s operating in Colombia have also exploited the aforementioned loophole by which contracts under 50 million dollars are not subject to congressional scrutiny. Through their flouting of congressional rules, the U.S., in Colombia at least, has strayed into what could be described as the outsourcing of war. The consequences are potentially serious on several fronts. As well as the undoubted human cost of facilitating the Colombian army in their collusion with the paramilitary death squads, it also means that serious foreign policy decisions that may result in such violent consequences do not receive “the benefit of the checks and balances system inherent in our system of government”.¹²⁸

In terms of regulation, outsourcing the use of force to unaccountable private entities also allows governments to bypass democratic oversight. Mark Thompson in his hard hitting expose, *Bosnia: Generals For Hire* eloquently sums up the attraction of P.M.F.s for governments, and the most probable reason why meaningful regulation has gotten nowhere; “When policy makers have the option of hiring consultant mercenaries to do a messy job it is easier for Washington, or any other capital, to ignore the consequences and fudge the responsibility”.¹²⁹

Plan Colombia is, by no means, the only example how governments have exploited the availability of private armies to remove decision making about the use of force from democratically elected forums of accountability in pursuit of ideologically inspired geo-political objectives. When hostilities broke out in the Balkans, in the wake of the dissolution of Marshall Tito`s Yugoslavia, the Europeans were initially very reluctant to get involved, and it was the Americans who eventually took up the slack in terms of both airpower and boots on the ground. Their willingness to intervene (compared to other war torn regions) probably had less to do with humanitarian concerns than the

¹²⁶ De La Garza, Paul and Adams, David 2000 : St Petersburg Times, December 3rd

¹²⁷ Ibid : 126

¹²⁸ Singer, Peter. 2003 : 210

¹²⁹ Thompson, Mark. 1996 : “Time”, January 15th,

opportunity to extinguish one of their few remaining communist era foes in the shape of Slobodan Milosevic. The problem for the Pentagon and the Clinton administration was again perfidious congress that had placed strict limits on troop levels, decreeing that the number of soldiers on the ground could not exceed twenty thousand. In what was then to become the biggest P.M.F. contract in the sector's history in 1995, leading security provider Root and Brown were initially paid 546 million dollars to provide logistical support for the Bosnian mission, a figure which would later balloon to over a billion a year. Part of this deal was the provision of more than 2000 extra personnel "to allow more soldiers on the front line without exceeding the official cap"¹³⁰ stipulated by congress, again making a nonsense of efforts to ensure that the use of force is subject to democratic control and congressional oversight.

The contention that the use of P.M.F.s constitutes a loss of control and a deficit in terms of democratic accountability invites the reasonable counter argument that while the process may be open to abuse, politicians are ultimately elected by citizens, still take the important decisions in relation to the use of P.M.F.s, and thus retain overall control. In the next chapter this counter-argument will be addressed by demonstrating that political control is more illusory than real.

¹³⁰ Mlinarcik, J.T. 2006 : 132

2. PMFs and the Transnational Power of the Market

Because of the monopoly that the state has traditionally long held over the use of force, in calculating political maneuverings and the trajectory of intra-state conflicts, International Relations experts have often assumed it acceptable to largely ignore other actors when it comes to warfare. With the explosion of P.M.F. activity in recent years, transnationalists contend that “this assumption is implicitly challenged”.¹³¹ In the new dispensation, the powers who indulge in the precarious act of inter-state conflict are no longer simply sovereign states but also include interdependent players involved in a network of transnational transactions. The concept of the interdependent players who facilitate and are in turn facilitated by each other will be expanded upon in due course when we examine the role of P.M.F.s in the empowerment of other non-state actors. In this chapter, however, we will focus on how such a heterogenous mix of militarized actors has been facilitated in the first place.

To the transnationalist mind, this developments are intrinsically connected to the marketization of military services, where by the expansion of the private military industry through marketization, outsourcing and outright privatization means that the use of force is no longer subject to the confines to the territorial state.

Though the primacy of the market and the ideology of privatization have been a core concepts of liberal economic policy since the days of Adam Smith, they has seen an unprecedented acceleration in the last 25 years as governments have found it increasingly expedient to hive off traditionally public spheres of responsibility to the private sector. An array of public functions have been “outsourced”, from education and health care to post offices and prisons. Indeed, the debate over where the line between public and private should be drawn has long been one “of the grand dichotomies of western thought”.¹³² After thirty years of neo liberal hegemony, as outsourcing has finally ventured from mere

¹³¹ Mearsheimur, John. 1994 : 45/46

¹³² Jones, Trever and Newburn, Tim. 1999 : 29

procurement into the arena of active military operations,¹³³ one recalls Joseph Heller's classic anti-war novel, *Catch 22*, in which the combustible Major Minderbender remarks "Frankly, I would like to see government get out of war altogether and leave the whole feud to private industry".¹³⁴ Heller was, of course, satirizing the notion of taking corporate control of warfare to its extreme conclusion, but little did he realize that a mere thirty years later his satirical musings would be more a matter of fact than of fiction. The extent to which this can be said to have actually taken place is where transnationalist and realists come to blows. Transnationalists would cite renowned political scientist Samuel Huntington who was of the opinion that the military is monopolized by the state because the state has a direct interest in the maintenance of its own security and sovereignty through accountable defense forces,¹³⁵ and P.M.F.s, by the very fact of their existence, break down this connection between force and the source of its authorization.

Realists, in turn, would argue that P.M.F.s do not in substance breach this principal and merely represent another resource that states can use to enhance their power, and from which states have benefited. All of which returns us to the vexed issue of control that we raised at the end of the previous section. In reply to such realist arguments, this thesis would posit that realists commit the same mistake with P.M.F.s in particular as they make with T.N.C.s in general, by confusing de jure control with de facto autonomy. In an earlier chapter it was established that state control of T.N.C.s was more illusory than real because their enormous de facto power allowed them huge unofficial autonomy regardless of the theoretical systems of control designed by the state. P.M.F.s as a particular type of T.N.C., enjoys a similar dichotomous relationship with the state. Just as politicians have long been addicted to the financial resources that T.N.C.s can provide, they have become similarly addicted to the ease with which the deployment of P.M.F.s can obviate difficult decision making and bypass troublesome systems of accountability. The reality, as Mills and Strelau point out in their exhaustive study of the privatization of African security, is that "P.M.F.s operate outside any single state's

¹³³ Bailes, Alyson, Schneckener, Ulrich and Wulf, Herbert. 2007 : 1

¹³⁴ Heller, Joseph. 1961 : 44

¹³⁵ Huntington, Samuel. 1957 : 37

exclusive control or domain, and demand for its services cannot be explained away by a world view of pure state dominance¹³⁶ to which realists remain so attached.

Accepting that the control that politician supposedly hold over P.M.F.s is ultimately illusory requires an understanding of the reality of the relationship that has developed between the state and the private military industry. Taking North America as an example, the relationship is probably best described as one of chronic dependency. As was noted in earlier chapters “the predominantly self-reliant U.S. military machine began to morph dramatically in the 1990s”,¹³⁷ to the point where, these days, contractors are involved in every aspect of security from maintaining radar networks to launching weather satellites. This raises the crucial point that in outsourcing personal and services the state risks becoming overly dependent on the private agent, effectively rendering the political choices that our elected politicians are supposed to make on our behalf meaningless.

Clearly issues of over dependence and the subsequent de facto ceding of democratic control have greater implications for more fragile states, but the problem is not confined to the failing states of West Africa. A particularly farcical example recently involved the Canadian armed forces when a private contracted transport agent was returning a unit from Bosnia. A financial dispute between subcontracting agents meant that one third of the Canadian military was left stranded in international waters off the Canadian coast for two weeks until a settlement was reached.¹³⁸ As this was a business dispute between private corporations, state intervention was both slow and fraught with legally complexity. It remains a stunning example of both the breach of the principle of the state’s monopoly on the use of force and the impotence of democratically mandated politicians in the face of private power. In the U.S., too, a vast disparity exists between de jure control of P.M.F.s and their de facto autonomy, again the result of over reliance on the private sector. Under its own rules the military is only supposed to privatize those services that are not emergency-essential support functions, so that their unavailability would not damage military operations. Since the 1990s, this line has been repeatedly crossed to the extent that there are now many military functions which no regular army

¹³⁶ Mills and Stremmler. 1999 : 826

¹³⁷ Mlinarcik, J.L. 2006 : 133

¹³⁸ Walker, James. 2000 : ABC News, August 3rd

personnel is qualified and trained to do “with little evidence that concerns about loss of control have been addressed”.¹³⁹ This represents an enormous danger not only to the military command structure but to the elected representatives democratically authorized to monitor it. It is of little use for the commander in chief to relay his wishes to the pentagon chiefs if the only personnel skilled to carry out the tasks are not, as we established in the previous section, directly accountable to the military and whose loyalty is first and foremost to private industry and the profit motive. This is a clear example of the risk to both operational and democratic control that can occur when government functions are left to the mercy of the profit oriented market place.¹⁴⁰

All of which returns us neatly to the central concern of this chapter, the marketization of military capabilities. The ideological charge towards the holy grail of outsourcing set in train by Donald Rumsfeld in his Reagan days has weakened state control in a number of other ways as well. For one, it has leveled the playing field with regard to access to the means to prosecute war, eroding the traditional advantage that the sovereign state has held over other actors. In other words, the use of force is now available to the highest bidder. This development has transformed the relationship between military action and the state where activity is limited not by territorial constraints but by that of the market. This is particularly true of weaker states where the balance of financial power between the state and a competing non-state actor may be not be as clear cut as in larger more stable states, or where centralized control over the use of force in certain regions is far from complete. In such instances, P.M.F.s have shown themselves to be capable of tipping the balance in either direction. Angola, where Executive Outcomes first made its mark, is an excellent example of this trend. Initially hired to retake valuable oil fields from the U.N.I.T.A rebels, E.O. also rapidly pushed back the rebel advance and “enabled the Angolan government to conclude a favorable peace agreement with rebel forces”.¹⁴¹ By the same token, P.M.F.s have also been in the pay of resource rich non-state actors who wished to take the fight to the sovereign state. A particularly salient example is the employment of private military services by Mexican and Colombian drug cartels who have challenged the authority of

¹³⁹ Singer, Peter. 2003 : 63

¹⁴⁰ Brower, Michael, J. 2000 : 67

¹⁴¹ Ridlon, Captain Daniel.P. 2008 : 216

their states, at least at regional level.¹⁴²Such scenarios give clear practical expression to the contention proffered by the Connecticut Journal of Legal Studies that “in common with other T.N.C.s it seems that the only effective limitation on P.M.F.s is the limitations of the market”.¹⁴³

If one wished to further illustrate the propensity of the market to facilitate the private use of force, particularly in weak states, there is perhaps no better example than the civil war that broke out in Sierra Leone in the 1990s. In April 1995, with rebel forces advancing towards the capital, the central government was quickly running out of options. Their appeals to the U.S. and the U.K. for intervention had been rebuffed so the regime turned to the private military industry, again in the form of Executive Outcomes. However the government, in military and financial dire straits, could not scrape together the contract fee for their services. Enter Branch-Heritage, a mining Corporation who agreed to fund the venture, allegedly in return for future mining rights in the country. With highly armed personal and their aircraft and SUVs, E.O. had repelled the rebel advance within weeks and reestablished government control as per their contract. In other words, one large N.S.A. bankrolled by private industry achieves a favourable outcome for the investment portfolio of another large N.S.A. with the state and its incompetent military standing largely impotent on the sidelines.

What the Sierra Leone incident clearly illustrate is that through privatization of military capability “the states agent of action is no longer always its national military but often a profit motivated actor”,¹⁴⁴ whose allegiance is not primarily to the state but to its shareholders, and whose actions are less guided by state strictures than the strictures of the market place. In short, the market has become an important arbiter of who wields coercive power and where it is it wielded, and to what extent, now that “coercive capabilities are accessible to all with the wherewithal to seek them”.¹⁴⁵

The market, through P.M.F.s, and increasingly resource rich N.S.A.s, can facilitate much more diverse arrangements when it comes to the employment of force in the international arena than has been the case for the last few hundred years where the dominance of the state system had insured

¹⁴² Scott, Peter, Dale and Marshall, Jonathon. 2004 : 26

¹⁴³ Jones, Oliver, R. 2008/2009 : 255

¹⁴⁴ Singer. Peter. 2003 : 170

¹⁴⁵ Metz. Steven. 2000 : 42

that sovereign states retained all but complete control over the use of force. According to expert military analyst, Steven Metz corporate armies, navies and intelligences services will become ever more important players in the armed conflicts of the twenty first century,¹⁴⁶ as warfare becomes more complex, traditional armies become more obsolete and use of technical expertise pioneered by the private sector plays an increasingly important role in security provision and the prosecution of conflict. Undoubtedly, given the resources that many states still retain, conventional armies will still be a dominant element but in a far from homogenous mix. Such processes point to what Alvin and Heidi Toffler describe as a kind post-modern style of warfare carried out by “a loose heterogeneous networks of state and non-state military organisations, some political or ideological in orientation, some profit seeking, but all operating in a constant flux of cooperation and conflict”,¹⁴⁷ a far cry indeed from the state control and command framework of the past.

Such a vision is not simply a fanciful evocation of things to come but is already a reality on the ground. A classic example was the late 1990s conflict between Ethiopia and Eritrea which involved a dizzying array of state and non-state agents.¹⁴⁸ The variety of non-state elements to this and many other recent conflicts were not subject to any meaningful state regulation, meaning that in many cases the “the locus of judgment on how military operations are carried out in the field”, and even whether such forces should be there in the first place, “are outside of state control”.¹⁴⁹ This brings us neatly to the final section of this thesis where we look in detail at some of the non-state elements in the heterogeneous mix of military actors that Heidi and Alvin Toffler so eloquently describe.

¹⁴⁶ Metz, Steven : 2000 : 42

¹⁴⁷ Toffler, Heidi and Toffler, Alvin. 1993 : 94

¹⁴⁸ Akcinaroglu, Seden and Radziejewski, Elizabeth. 2012 : 8

¹⁴⁹ Toffler, Heidi and Toffler, Alvin. 1993 : 94

3. *PMFs and Other Non-State Actors*

The final chapter of this thesis has been dedicated to exploring three fundamental strands of the relationship between the private military industry and the state. The first two sections dealt the industry as a powerful N.S.A. in itself, and its role in a wider ideological process of marketization and the outsourcing of public functions. The final section looks at the relationship between P.M.F.s and other non-state actors and the role the private military industry plays in their empowerment relative to the state.

As we established in the previous section, the marketization of military capabilities has thrown the field of organized violence open to the highest bidder. This has been one of the keys to P.M.F. empowerment of other non-state actors with the resources to engage such services. Previously at a disadvantage in a state monopoly system, other actors now have wealth of privatized options with which to progressively erode the edge that the state has traditionally maintained.¹⁵⁰ This also turns some recent assumptions about the fungibility of power on its head. It has been argued that increasing interdependence among nations had limited the ease with which economic power could be translated into military power. This may certainly be true in the case of the major world powers, but in the world of non-state actors where they and P.M.F.s effectively collude, it seems that power has become more fungible than ever,¹⁵¹ yet again increasing the autonomy and influence of non-state actors relative to the power of the state.

Such a claim inevitably begs the questions about which non-state actors are actually definitively empowered by the activities of the private military industry. In this final section several such actors will be examined, including other transnational corporations, lawless elements such as organized criminals and violent insurgency groups, and reputable N.S.A.s such as the U.N.. An exploration of their relationship with P.M.F.s will illustrate how non-state actors often act in concert with each other, and how this process is often at the expense of sovereign state control.

¹⁵⁰ Metz, Steven. 2000 : 63

¹⁵¹ Singer, Peter. 2003 : 182

An earlier chapter was dedicated to proving that de jure control over transnational corporations wielded by the state was more illusory than real and that the de facto autonomy of T.N.C.s, as N.S.A.s, has been facilitated by the twin ideological processes of neo-liberalism and globalization, to the point where many T.N.C.s have built huge economic and financial transnational power bases which they are eager to protect and enhance. This reality is directly connected to our present concern because in this very process T.N.C.s have been increasingly aided and abetted by the growing availability of private military capability. This is a fundamental sea-change from how things operated in the past.

An obvious and valid reply to this statement is that such activity is nothing new. Indeed the twentieth century is replete with examples of military aggression at the behest of private industry, long before P.M.F.s arrived on the scene. Among the most infamous was the toppling of the socialist regime in Guatemala in 1956 by elements of the U.S. military because, in the sardonic words of Gore Vidal, the “United Fruit Company didn’t want to pay its taxes”.¹⁵² The important distinction is that, however reprehensible its actions, the coup had sovereign state sanction and employed force from sovereign armies. That was back in the days when T.N.C. power used to be limited by physical weakness and relied much more on security provided by the state and where its “survival as a viable business depended on the local state carrying out its responsibilities”.¹⁵³ Since then, as this thesis has consistently argued, the balance of power between the state and non- state actors such as T.N.C.s has changed dramatically. Even as establishment a figure as Dwight Eisenhower was not blind to the potential dangers of the private acquisition of power. In remarkably prescient remarks in 1961, he warned “that in the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought by the military industrial complex. The potential for the disastrous rise of misplaced power exists and will persist”.¹⁵⁴

In the intervening 40 years, the military/industrial complex has indeed come into its own, though with a twist that Eisenhower had not envisaged, namely the conjunction of industry with private rather

¹⁵² Vidal, Gore. 1977 : 234

¹⁵³ Singer, Peter. 2003 : 188

¹⁵⁴ Eisenhower, Dwight. 1961 : 1035

than state based military power. Many of the largest T.N.C.s have begun to take on the proportions of small states and while they still employ considerable resources towards infiltrating the state political system through lobbying and financial inducement, when it comes to employing force to protect their market position or see off opponents to their corporate plans, the largest T.N.C.s are, these days, increasingly willing to go it alone. In such endeavors they have a willing partner in the private military industry that facilitates the political and military empowerment of T.N.C.s by physically enforcing their writ. In an earlier chapter on the autonomy of T.N.C.s, graphic examples of precisely this kind of relationship was cited, including Shell and Chevron employment of private force against hostile locals to protect their oil interests in the Niger Delta and agri business's use of para-militaries to scupper the leftist lad reform movement in in Central America.

It is a testament to the growing power of symbiotic relationship between T.N.C.s and P.M.F.s that their ability to overcome localized indigenous opposition is already pretty much a given. There is now a growing consensus that some of the larger P.M.F.s are fast gaining the capability "to dislodge any government in Africa at the behest of private industry and as such poses a real threat to local authorities who dare to challenge them".¹⁵⁵ It is in this real sense that it can be said that P.M.F.s play a serious role in the empowerment of other N.S.A.s in challenging the sovereign authority of the state.

Aggressive transnational corporations looking to protect profits and expand markets are not the only non-state actors facilitated in their endeavors by the private military and security industry. Since the end of the Cold War, the geopolitical landscape has changed dramatically, destroying the grim but predictable communist/capitalist, East/ West divide. The rise of nationalism and the proliferation of newly minted nations with the fall of the iron curtain have created a much more complex geo-political environment, throwing up a wealth of disparate nationalist insurgent and terrorist groups, the most high profile of which has been the Islamic fundamentalist group Al Qaeda. Simultaneously, the post-Cold War period was a positive boon to the private military industry, providing fertile ground for its growth into multi-billion dollar transnational player. This synchronicity of events has provided another good opportunity for mutual N.S.A empowerment, often to the detriment of the state. While P.M.F.

¹⁵⁵ Singer, Peter. 2003 : 189

executives, such as the infamous and aforementioned Tim Spicer of Sandline fame, would claim the private military firms generally confine their services to legitimate and responsible states,¹⁵⁶ the reality is that, for every supposedly reputable P.M.F., there more than a few rogue operators willing to supply whosoever comes a calling if the price is right. Earlier we noted how well financed insurgents caused serious destabilization to the states of Mexico and Colombia, one of many examples where P.M.F.s have either supplied insurgent groups and other violent non-state actors, or directly engaged in combat by their side. Private military companies have also been reportedly active for anti-government insurgents in Liberia, Sierra Leone and the former Yugoslavia. And the nefarious involvement of P.M.F.s in anti-statist activities does not stop there. Reports from both the American publication, *Newsday* and the BBC, in September 2001 pointed to the involvement of P.M.F.s in the training of terrorist networks. Never slow to spot a lucrative opportunity, certain firms saw a profitable opening in the training of young Muslim men in preparation for holy Jihad against the west.¹⁵⁷ According to the reports, a British firm Sakina Security LTD offered weapons training as part of its Jihad Challenge package, while its impressive sounding sister firm, Transglobal Security International, operated military training camps for radical Muslims of the type who would later sow carnage on the London underground. These are but the most egregious examples of how the private military industry has enriched itself by empowering other violent non-state actors in their efforts to destabilize sovereign states and strike fear into the hearts of their citizenry.

The final part of the analysis of P.M.F. relationships with non-state actors goes beyond aggressive transnational corporations and violent dissident groups to respectable and respected multilateral entities at the heart of the global establishment. The United Nations as a multilateral institution is a particularly useful example, given its interaction with nation states when it comes to international peacekeeping and the prosecution of war, and its more recent and controversial involvement with the private military industry. It is a complex and revealing triangular relationship that provides valuable insight into the shifting balance of relative power between states and non-state actors. For the purposes of a thesis focused on the monopoly of the legitimate use of force, perhaps

¹⁵⁶ Spicer, Tim. 1999 : 50

¹⁵⁷ BBC Online. 2001: October 4th

the most significant development in the relationship between the U.N. and its nation state members is the evolution of the concept of the Responsibility to Protect (R2P) which attained the status of an international norm during the tenure of Kofi Annan. R2P establishes the right of the international community to set aside the accepted norms of Westphalian sovereignty in order to prevent gross violations of human rights perpetrated by states on their own citizens. According to the United Nations Regional Information Centre for Western Europe, intervention should ideally be discussed on a case by case basis to decide if there “is a need for the international community to mobilize collective action and act in accordance with R2P”.¹⁵⁸

There are two important questions with regard to sovereign control to be considered here, one much talked about, the other less so. In relation to R2P the focus has overwhelmingly been on the balance, as Julia Gronnevet frames it “between a nations right to non-meddling in its internal affairs by another country versus the international community’s responsibility to ensure human rights for all”.¹⁵⁹ The whole notion of intervening with the supposed intention of protecting human rights has suffered a serious setback in recent years with the hugely controversial invasion of Iraq for several reasons, not least of which was the failure to find weapons of mass destruction and the widespread belief that the well-being of Iraqi citizens was not the primary motivation for invasion. This seminal event has helped to muddy the water between what may constitute humanitarian intervention on one hand, and neo-con nation building on the other. It is, however, a concept that the U.N. remains committed to in principle, has been employed to greater or lesser degrees throughout the so called Arab Spring, and one which has potentially far reaching consequences for the extent to which states can truly wield sovereign control over their territorial boundaries.

The second less talked about implication of R2P is not the rights its gives the international community, but the duty it imposes on individual nations to intervene when they are reluctant to do so. Taking the R2P doctrine to its logical conclusion, decisions about when a state performs intervention, which will in some cases involve the use of force, no longer remains at the discretion of the sovereign state, its democratically elected officials and those which they represent, but in the hands of a

¹⁵⁸ www.unric.org/en/responsibility/to/protect

¹⁵⁹ Gronnevet, Julia. 2008 : Guardian Newspaper, December 29th

multinational institution over which many of its smaller members have little or no control. In terms of nations threatened with intervention, and those charged with carrying it out, the concept of R2P, again very much the product of late twentieth multilateral processes, is another good example of how the balance of power is shifting away from the state and towards ever more powerful non-state actors.

One could, however, argue that R2P is simply an extension of the multilateral power that the U.N. has been accruing since its inception 60 years ago, and that the assumption of the state's monopoly on force had been challenged long before the advent of P.M.F.s by the emergence of international institutions after the Second World War to which states have, for decades, ceded control of the use of force, particularly with regard to peace keeping operations. In rejecting this analysis, we would argue that there is a fundamental difference between farming out operations to multinational peacekeeping units and ceding them to P.M.F.s. A multinational force under the auspices of the U.N., for example, is composed of soldiers from the national armies of its members and, as such, is subject to the same regulations as it would be if it were engaging under its national flag alone. They are also clearly subject to the strictures of the Geneva Convention. As we discovered in a previous chapter, the private military industry as a transnational corporation, and its personnel as non-combatants, remain a vast grey area when it comes to both domestic and international regulation. To compare a traditional multinational peacekeeping force with a P.M.F. force in terms of the state monopoly on the use of force is, therefore, highly misleading and does not constitute a substantive breach of the sovereign monopoly on the use of force. It is only with the emerging use of P.M.F.s by these very same multilateral institutions that the monopoly can be said to have been truly broken, and it is to this issue that we now turn.

The U.N. has, for many years, been one of the most trenchant critics of the use of private military firms, branding them in various reports as unaccountable, and highlighting their complicity in human rights abuses in war zones and unstable regions across the globe. It was, therefore, something of a surprise when it was revealed that not only does the U.N. employ private military and security firms but that their use within the organization is rapidly growing. According to the well informed Huffington Post correspondent David Isenberg, the U.N. relies on the private military and security sector to much a

greater degree than is commonly realized”.¹⁶⁰In other words, their activities are not confined to cleaning offices, making the tea, or even to security services but extend to “supplying other specialized services such as advice, training, demining and logistics”.¹⁶¹ In its East Timor operations, for example, the U.N. made use of two South African outfits including our old friend and serial offender, Dyncorp, largely for ancillary tasks including service provision. Even more startling is the fact that the U.N. been employing actual private police personnel indirectly for years. According to a comprehensive report by respected think tank, the Geneva Centre for the Control of Armed Forces (DCAF), the U.S. “relies entirely on recruiting police personnel from private contractors”¹⁶²when it comes to seconding them on international missions.

Perhaps even more salient to the concerns of this thesis is the prospect of the complete outsourcing of peacekeeping operations to the private military industry, an option that has been under active discussion with in the relevant circles for some years.¹⁶³ It has been prompted by the availability of such services, and the long standing dissatisfaction with the conduct and outcomes of many U.N. missions, from Somalia to the Balkans.

Though there has been considerable resistance to such moves from within the organization, it seems likely that it is only a matter of time before P.M.F.s make the transition from security detail and logistics to the front lines of peacekeeping. With regard to the monopoly on the use of force, the prospect of P.M.F.s retaking hostile territory on behalf of the UN heralds the ultimate irony. As Mary Kaldor points out in *New and Old Wars*, the restoration of legitimacy is key to any conflict resolution, especially the return of the control of force to publically accountable authorities.¹⁶⁴In this context, a private force would lack all popular legitimacy. Their use would also raise a host of other related accountability issues such a conflicts of interest that may influence the motivation of P.M.F.s in certain locations, or the prolongation of the conflict to maximize revenue.

¹⁶⁰ Isenberg, David. 2012 : Huffington Post, April 13th

¹⁶¹ Otensen, Ase, Gilje. 2011 : 11

¹⁶² Ibid. : 12

¹⁶³ Mbogo, Stephen. 2000 : 11

¹⁶⁴ Kaldor, Mary. 1999 : 10

Issues of legitimacy and accountability, however, are likely to be subordinated to the fact that the use of P.M.F.s by a reputable non-state actor such as the U.N. has clear benefits for both parties.

All in all, the U.N. is fast becoming a substantial employer for the private military industry where P.M.F.s are the beneficiaries in terms of lucrative contracts. It also facilitates increased control of the security agenda by P.M.F.s, inevitably to their own advantage as “increased use of P.M.F.s and their involvement in determining UN and national policy means that countries end up with an increased “need” for security”¹⁶⁵, a process which is ultimately self-perpetuating for the industry.

In turn, employment of P.M.F.s allows this ostensibly reputable non-state actor to evade the constraints placed on them by the collective nature of decision making and accountability that is imposed on them by individual member states. The motivation is the same as with regard to governments desire to evade responsibility and oversight through the covert use of the same P.M.F.s. As we have seen, such decisions, ultimately weaken the sovereign integrity of the state, however, when employed by the international institutions, it has the opposite effect, increasing their autonomy from those who theoretically control them while at the same time invading functional territory of the state as expressed through traditional state based peacekeeping activities.

¹⁶⁵ Pingeot, Lou. : 2012 : Global Policy Forum, July 10th

Conclusions

As we make our way through the second decade of the twenty first century, looking back we can witness the astonishingly rapid changes that have taken place in international politics in less than twenty five years. The fall of the Berlin wall and the demise of communism, the acceleration of globalization and the rise of neo-liberalism, the transformation of warfare and the so called war on terror, have all called into question the cosy certainties about how the international system functions, and the relative dominance of the conduits through which it operates. It is this milieu of unprecedented change that prompted the reexamination of certain key relationships within the international system.

It has long been a pillar of international relations faith that the undisputed primary unit of the international system is the nation state, a belief shared to varying degrees by the two dominant strands of international relations theory, realism and liberalism. In recent years, more radical less mainstream theorists, particularly transnationalists, have sought to challenge the hegemony of these assumptions in the light of the growing diversity of actors that have come to the fore, and are playing an ever more active roles, both nationally and internationally. The objective of this thesis has been to explore the validity of the evidence that suggests that supremacy of the state as the primary unit is being seriously threatened. As was made clear at the outset, it is not the contention of this thesis to baldly claim that the state is a busted flush. It clearly remains, on the face of it, the most recognized and recognizable entity in the international system. Rather, the aim of this thesis has been to assess whether there is credible evidence that a clearly defined direction of travel away from the state has been established by late twentieth century and early twenty first century developments, with regard to other non-state actors and the globalized, neo-liberal environment in which they operate.

After briefly outlining the various standpoints of the principal international relations theorists, *visa vi* the state and its place in the international system, it was useful to elucidate how prognoses about its future has been influenced by conflicting ideas about the origin, nature and evolution of the state as an entity. This conflict was most constructively explained by reference to primordial/modernist divide. Also necessary to the preliminary backdrop was the introduction of the contemporary non-state actor, and its progression in the unique economic and political environment of the late twentieth century.

The opening theoretical section was completed with an analysis of the opposing perspectives with regard to loss of sovereignty experienced by the state, both historical and contemporary. The discussion culminated by framing the central question of the thesis; do contemporary erosions of sovereignty at the hands of increasingly empowered non-state actors represent an unprecedented break with the past, that may presage that previously mentioned new direction of travel, or are they simply more in a long line of violations of sovereignty that the state has always had to contend with? The subsequent case study was designed to examine the extent to which the former, rather than the latter, could be said to be taking place.

To test the validity of the transnationalist claims, best summed up by historian Eric Hobsbawm's image of the state as increasingly nominal in its centrality, with its functions hollowed out through competition from other non-state actors, a relevant and worthy subject needed to be chosen to best represent this process in a case study. To this end, transnational corporations were chosen and the first task was to demonstrate their de facto autonomy from the state. In this chapter, it was established that contrary to conventional wisdom, the control that the state exerts over transnational corporations is more illusory than real, allowing this actor the space to create an alternative power base to the state. To further illustrate these twin processes of autonomy from the state and usurpation of its functions, a specific T.N.C. example was chosen in the form of the private military industry.

The first step with regard to P.M.F.s was to establish the private military industry as a contemporary phenomenon firmly rooted in a wider process of late twentieth century political change where neo-liberalism, privatization of public goods and multilateralism facilitated the empowerment of not just P.M.F.s, but a wide range of non-state actors that collectively represented a new and unprecedented threat to state sovereignty and the democratic accountability that underpins it. While the modern private military industry bares certain interesting resemblances to the mercenaries of old, in terms of organization and structure and motivation, P.M.F.s were revealed as a distinctly late twentieth century phenomena. The most relevant difference, with regard to the central themes of this thesis, is the roots that P.M.F.s have in political and ideological partisanship that promoted the ideology of outsourcing as an alternative to state provision which has become prevalent far beyond the realm of the military, and which hold serious consequences for the accountability of public institutions.

The final and most important phase of this thesis was to outline in practical and concrete terms the ways in which the private military industry, as an example of both a T.N.C. and a contemporary N.S.A., actively threatens the sovereignty and democratic accountability of the nation state, both in and of itself and as part of the wider processes already alluded to. This was achieved by examining the effect of P.M.F.s on one of the key sovereign functions of the territorial state, that of the monopoly that the state enjoys over the legitimate use of force, a privilege entrusted to it by its citizens.

Three distinct strands of this process were identified. Firstly the issue of regulation of P.M.F.s was investigated, and it was found that their activities were so insufficiently regulated as to constitute a clear breach of this fundamental sovereign role. Neither P.M.F.s nor their personnel were subject to the same oversight and accountability as their traditional state counterparts. Whether through political expediency or ignorance, the activities of P.M.F.s have remained disturbingly immune to both domestic scrutiny and international legal norms collectively agreed by sovereign states. By effectively bypassing the norm generating mechanisms inherent in democratic governance, critical policies determining military capability, its deployment, the consequences of that employment, and indeed those charged with executing it, are not subject to any meaningful mechanisms of accountability. In other words, the activities of the private military industry and the conditions under which they operate break the constitutive link between citizenry and the institutions of government, creating a stark democratic deficit between the governed and those entrusted to govern. This state of affairs makes a mockery of the unique role and exclusive power bestowed on the sovereign state by its citizens

The second strand of argument dealt with P.M.F.s in the wider context of the ideological revolution of the late twentieth century, which saw neo-liberalism gain global hegemony as the power of the market reigned supreme. The unprecedented transnational power of the market place has helped to place the private military industry ever further beyond the reach of individual state control. The availability of military capability to anyone with the means to purchase it has drastically eroded the advantage that state traditionally enjoyed in this respect. Engagement in military activity is no longer limited by the confines of the territorial state, but by the vagaries of the market, which has now become an important arbiter of how and when force is used, and by whom. This again has implications for the quality of accountability, oversight and de facto control of fundamental policy decisions by citizens, one of the essential components of a truly sovereign state. These consequences flow from the fact that the allegiance of the market, in so far as it has any, is not to democratic state

institutions and affective mechanisms of accountability, but to something called the profit motive and its shareholders. In such a scenario, effective democratic control of how force is employed is removed from representative public bodies and placed it in the hands of a private elite, beyond the reach of effective oversight.

The final strand dealt with the relationship of P.M.F.s with other non-state actors and the processes through which P.M.F.s actively empower other non-state actors, often at the expense of the state. It was established that P.M.F.s play an important role in facilitating powerful transnational corporations to challenge the writ of the sovereign state, particularly in weaker states where the balance of forces between the private and the public is much more precarious. This process, as we noted in the final chapter, is not confined to transnational corporations, or N.S.A.s that exist outside polite society, but extends to respectable multinational institutions such as the U.N. and the international financial institutions. Collusion between P.M.F.s and multilateral institutions once again results in a democratic and accountability deficit, as these institutions can procure security and military capability from private sources, thus bypassing the much more rigorous systems of oversight inherent in the process of seconding personnel from its nation state members.

The investigation of the private military industry and its relationship with the state provides clear evidence that, in and of itself, the industry has made serious inroads into state territory with regard to the monopoly on the use of force, eroding the states exclusive hold on this function. Perhaps even more significant is when the P.M.F. experience is placed in the larger context of other contemporary N.S.A.s in the modern, transnational, political and economic order. What emerges is a complex picture of a diverse range of non-state actors thriving in an unprecedented neo-liberal and multilateral dispensation, in which this multiplicity of N.S.A.s sometimes compete but mostly reinforce each other, in many cases to the increasing detriment of the sovereign authority of the state.

So what light does all of this shed on the original premise of transnational theorists about the changing relationship between the state and other actors in the globalized environment of the twenty first century, and its consequences for the future of the nation state as the primary unit of the international system? Our investigations of the private military industry, both in itself and as a microcosm for non-state actor activity more generally, has in my view, provided serious food for thought for those who lightly dismiss state and non-state actor interaction as of little consequence to the status of the state in international system.

The activities of P.M.F.s clearly show the state losing a significant degree of control over a key function of government on two levels. Firstly, sovereign authority is lost through the inability to properly regulate the industry, and through overreliance on private military services that states themselves use. On the second level, the state has lost control by virtue of the fact that, through the marketization of military capability, the state can be affectively bypassed by other actors, as witnessed earlier by the ability of T.N.C.s to provide their own military force, in contrast to their past reliance on the state.

These twin features of the P.M.F. relationship with the state, a strong hand when it is dealing directly with the state, and the resources and resolve to go it alone when it is not, are reflective of non-state actors more generally. Each N.S.A. seeks and increasingly commandeers a slice of the finite pie that are the public functions of the sovereign state. P.M.F.s eat into the provision of force, other T.N.C.s into energy and transport, the IFIs into monetary and fiscal policy, the WTO into trade and export policy, regional organizations into national legislation, NGOs into international development and so on, slowly but surely, making a reality of the scenario that transnationalist theorist Ernst Haas envisioned over 50 years ago.

It may well be premature, as realists would undoubtedly argue, to signal the demise of the nation state as the dominant player in the international scene. The considerable majority of citizenry in the world still identify themselves, to a great extent, with a particularly nationality or territorially based ethnicity or culture. However, it is clear that, in this era of multilateralism and neo-liberalism, incursions into state territory are advancing not retreating. Therefore, it is the direction of travel rather than the distance already covered that may be the most telling. The day when the state has become truly hollowed out and largely irrelevant outside the realm of cultural symbolism may still be a distant prospect, but this thesis would strongly argue that the political, social and economic coordinates to that particular destination have most certainly been set.

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