

Privatised Peacekeeping: A necessary evil?

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*Submitted in partial fulfilment of the degree of Master of Arts in Philosophy,
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Abstract

The 'rise of the Private Military Industry' has been cemented in modern global political reality, but where next will this multi-billion dollar industry go and what form will it take after the market boom of Iraq? Post-Colonial Africa is considered the birthplace of the modern mercenary and historically features prominently as a testament to the potential for immoral privately sponsored military activities within unstable states. Moreover, it is a rich market that the Private Military Industry is increasingly turning its attention to, albeit focussing on support functions for now, but a massive industry with a competitive and poorly regulated market environment will invariably begin to explore different avenues as competition grows. With market diversification grows the ethical risk of abuse. At the same time, peacekeeping efforts across the continent are hampered by numerous factors, not least of all a chronic lack of trained personnel. Could the legal and political legitimacy, not to mention the sustainable market environment sought by the PMI potentially exist in multilaterally sanctioned, privatised peacekeeping and peace support operations in Africa? Can the ethical challenges of 'mercenarism' be suspended or even bypassed for the sake of expedient intervention in potential genocides, or be perhaps pragmatically accepted as an inevitable development that should be embraced rather than condemned, for strategic security reasons? Can the ethical condemnation of the proposed means of peace support be overridden by the potential ends generated by such a move? Is the world ready for privatised peacekeepers? This dissertation explores the ethical background to the privatisation of military operations and how these foreign policy trends and social perceptions of control of force impact on the notion of privatised peacekeeping, particularly in the context of operations in Africa. It investigates the philosophical implications of privatised peacekeeping by way of a constrained pragmatic form of consequentialist evaluation that warns against reckless expediency. Ultimately, this dissertation offers a more philosophically suitable argument to justify and control this seemingly inevitable next step in the trend of privatisation of force.

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Introduction

Contemporary global society can be said to expect and even demand humanitarian intervention as a primary function of the United Nations.¹ In Africa, there is a commonly accepted need for peace support operations – and a desperate lack of capacity to provide that function, not to mention a number of other critical challenges that hinder effective humanitarian intervention on the continent.² Running parallel to this, the ‘rise of the Private Military Industry’³ has offered a new lease on life for traditional mercenarism, that has been praised and integrated into some nations’ foreign policies, and condemned and declared illegal by others. There has been a diverse global response to the Private Military Industry (PMI) in terms of legal and political approaches to the industry – however the formal academic response to the subject, specifically in terms of an ethical evaluation, has been limited (Baker 2008, p. 31). Ethical debate on the PMI tends to revolve around the same points of contention as debates on traditional mercenarism. This has created some debate on the question of whether the modern iteration of privatised security is morally distinguishable from traditional mercenarism. The fact that many of the anti-PMI arguments are reliant on significantly outdated premises suggests that this debate has stalled without encompassing a dramatically changing global environment and the new complexities associated with humanitarian application. Simply, does the potential for privatisation of peace support functions offer a new avenue for this debate or is it merely an expansion of the same area of concern relating to traditional mercenarism and the modern corporate privatisation of force? I believe it does, and indeed, there is a significant body of argument posed in favour of privatisation of peacekeeping despite the moral misgivings that persist over the PMI. Therefore, the question posed is whether the practicalities and inevitabilities of privatised peacekeeping necessitate expedient treatment of the ethical concerns?

¹ James Pattison (2007) makes this argument, drawing from Neil McFarlane et al 2004 and the 2001 ICISS report entitled *The Responsibility to Protect*.

² Mentioned for instance in Christopher Clapham’s article *Whither Peacekeeping in Africa?* (Monograph 36, April 1999). Additionally, the Brahmin report describes problems in force projection and specialisation that is typical throughout UN operations. (Commented on in the United States Institute of Peace Special Report, 13, 02, 2001).

³ A phrase commonly attributed to P.W. Singer.

In 1998, Kofi Annan delivered a speech at the 35th Ditchley Foundation Lecture, entitled *Intervention* (Annan, 1998). He mentioned turning down the possibility of private assistance in the Rwandan refugee camps in Goma. His rejection of the privatisation proposal was based on his feeling that the world may not be ready for privatised peace. In order to provide an evaluation of an argument that promotes privatised peacekeeping, it is necessary to understand why Kofi Annan would feel that the world might not be ready for 'private peace'. This requires an understanding of the background to the question of privatisation.

In Chapter One, I provide a historical background to the notion of mercenarism, leading into the establishment of the PMI. I also provide details of the legal treatment of this notion. This leads into Chapter Two, which sketches out the academic debate on the topic. The mercenarism debate relates to a question of the ethical validity of mercenarism itself – resulting in an evaluation of privately wielded force in either consequentialist or deontological terms (with tangents heading off towards notions of pacifism and non-interventionist idealism). Additional questions arise on the political-philosophical implications of the privatisation of force, specifically in terms of the monopoly over force arising from Hobbesian Social Contract Theory (Hobbes 1996). Despite the level of sophistication at which this discussion can take place, the PMI has largely been argued for and against at an informal level, relying on selective empirical evidence and unsophisticated utilitarian arguments. Pertinently to this dissertation, the privatisation of peacekeeping is often on the receiving end of similar attention. The general debate of mercenarism tends to stall at a subjective incompatibility between fundamentally consequentialist and deontological perspectives relating to the means and ends of privatisation of force. I argue that the consequentialist arguments lose veracity amongst the myriad consequences of privatisation, while creaking along on an outdated framework of civil-military relations. The deontological arguments rely on long-held moral judgements of mercenaries and subsequently equate mercenaries to contemporary private contractors. Chapters One and Two of this dissertation combine to outline areas of debate relating to the concept of mercenarism and how it compares to the modern iteration of privatisation of force. This is to establish the ethical terrain for the further question on the privatisation of peace, offering some of the important areas of concern while sidestepping some of the dead ends of this debate.

The privatisation of peacekeeping, specifically with a view towards application in Africa is the central topic of this dissertation. The third chapter of this dissertation focuses on the peacekeeping side of the proposed privatised peacekeeping relationship. The emphasis here is on the changing nature of peacekeeping and the challenges facing peacekeeping operations particularly in Africa. Africa attracts the bulk of peacekeeping operations currently, and also exhibits some of the most recent mercenary history, which has created a particularly negative legal, political and social perception of mercenarism and the PMI. As such, privatisation of peacekeeping specifically in Africa, generates significantly contrasting perceptions of the positive and negative outcomes of such a proposal. There is also an inevitability about the eventual privatised military market migration from the Middle East to Africa. The question then is, in what form will this market develop? This chapter reveals the failing points of peacekeeping, with regards to conceptual and practical hindrances, and sets the scene for arguments on potential ways in which privatisation can help. In chapter Four, I examine some of the arguments presented in favour of the notion of privatisation of peacekeeping, particularly with regards to what I refer to as an ‘expediency argument’. This argument, tends to originate from a pro-PMI perspective and utilises what I show to be an inadequate and invalid form of consequentialist thinking to justify privatisation along what effectively amounts to pragmatic expediency without due consideration of the consequences of such a move. I then suggest a revision of this argument. This expands on the basic motivation behind privatisation, and systematically addresses the concerns relating to privatisation, instead of bypassing them.

The primary task of this dissertation is to establish an ethically informed evaluation of a particular type of argument that proposes a marriage between the requirements of the Private Military Industry and the peacekeeping needs of the world (albeit, specifically in Africa as far as this paper is concerned). It is a secondary goal of this dissertation to establish a more comprehensive and ethically justifiable argument in favour of the privatisation of peacekeeping.

Chapter 1

Origins of the Private Military Industry

Introduction

This opening chapter provides a brief overview of the Private Military Industry (PMI) phenomenon. The modern world is gripped by the outsourcing and privatisation trend (Alexander *et al* 2008). Public transport, schooling and healthcare: privatisation of functions previously performed by the state is increasingly the norm. But the transition to privatised military services pushes this trend to new levels in terms of legal, economic, political and social implications. It has therefore generated considerable debate and remains a controversial notion.

From the perspective of the modern global business realm, there is a growing awareness of the complexity relationship that exists between areas of business, of government and of society (Steiner 2007). The privatisation trend constantly puts stress on the fundamental tenets of this relationship, and it is conceivably in the realm of the privatisation of force that this relationship is most tested. This chapter provides a history of the privatisation of force, beginning with mercenarism in its traditional form, leading to the post-colonial mercenary and on to the contemporary Private Security or Military Contractor,⁴ The aim of this historical background is to underscore the contrast between traditional mercenarism and the modern form, to establish key concepts that are specific to the outsourcing of military services, and to refine the terminology entailed by this. This historical briefing then leads into an overview of the legalities of the topic – specifically highlighting the ‘grey areas’ that exist in international law when dealing with mercenarism and its modern form. It is

⁴ Private Security Companies or Contractors (PSCs), Private Military Companies/contractors (PMCs), Private Military Firms (PMFs) and recently, Private Military and Security Company/contractors (PMSCs). This naming process has gone through various revisions and is commonly used in several forms. Ostensibly they are all talking about the same entities and so I shall not belabour the subtle interpretive differences that may exist between them and instead use these various acronyms where appropriate.

the existence of these loopholes, ambiguities and interpretive grey areas that creates such difficulty in controlling or even defining the industry.

A key feature in the history of the emergence of the contemporary private military contractor has been the pursuit of legitimacy in the legal sense, as well as politically and morally. While this is a philosophical dissertation, specifically concerned with an ethical evaluation, the topic requires a multidisciplinary approach in the face of interconnected political, legal and economic factors. As a result, an exploration of the rise of the PMI, from its roots in historical mercenarism, will also touch on these elements.

History of the Mercenarism

Mercenaries

The Private Military Industry is the modern iteration of an age-old response to a particular need. As soon as specialised soldiers began to appear on ancient battlefields, the market for soldiers-for-hire was born. Men trained and employed specifically to fight were naturally more effective than armies conscripted from the civilian population, a fact reinforced as the complexity of war increased. The downside to a specialised ‘professional’ army was that it was more expensive to raise and maintain, not to mention a source of various political risks such as that posed to internal security by training a potentially rebellious populace in the finer points of warfare (a point raised prominently in O’Keefe 2008, pp. 12 –14)].⁵ As dedicated military forces were not always feasible, mercenarism provided trained, specialised troops to needy masters, and also provided these professional soldiers (now in the most literal sense) a regular source of income. With this relationship between supply and demand of specific martial skills established, it is arguable that a private military industry effectively came into existence, at least in the sense of the existence of a market for force.⁶

⁵ Ironically, this logic was employed during the 1994 post-apartheid election in South Africa where ANC officials allowed for PMI recruitment of former SADF personnel with the justification that it would “remove personnel which might have a destabilising effect on the forthcoming multiracial election.” (Pech 1997, p.8)

⁶ Deborah Avant promotes this concept in a study of the contemporary industry: *Market for Force* (2005).

Among the first historical references to mercenarism and the use of mercenaries come from the ancient Egyptians, where for instance the New Kingdom of Egypt made use of mercenaries in its new model army.⁷ In the classic era, Xerxes himself used Greek mercenaries at the time of Thermopylae while Darius the Third paid to have Greek soldiers in his ranks while facing Alexander the Great (who likewise employed mercenary troops). Persian use of mercenaries was particularly noteworthy and included the famous Xenophon (Mieroop 2006. pp. 270-271). Mercenaries featured in the Punic wars on both the Carthaginian and Roman sides, and later, barbarians began to serve an increasingly prominent role in the Roman Empire as swords-for-hire. The Varangian Guard served as one of the best-known mercenary forces to the Byzantine Empire (incidentally, over a quarter of the defenders present at the fall of Constantinople in 1453 were mercenaries [Runciman, 1990 pp. 86-88]). Throughout the medieval period and into the later Middle Ages, individual mercenaries such as El Cid, as well as larger established groups such as the famed Genoese crossbowmen and the early Swiss Mercenary Pikemen played roles in major European conflicts. This further developed into (often quite complex) formal arrangements such as those that existed between the condottieri and the Italian city-states from the Middle Ages into the 16th Century, and Free Companies such as the Catalan Company and the White Company commanded by Sir John Harkwood.⁸ It should be noted at this point that these organised companies often effectively became bands of raiders and brigands when not employed. They may have maintained a cohesive organisational structure, but they also were not at all hesitant to find other means of enrichment – not that this was unique to mercenaries. The Middle Ages aren't generally considered to be a particularly law-abiding period, especially for soldiers. In many ways, these mercenary bands fell somewhere between extortionists and privateers. They were also responsible for much of the negativity attributed to the notion of mercenarism.

In the 17th, 18th and early 19th centuries, mercenaries continued to play a role in European military affairs, from the original Wild Geese (banished Irish soldiers serving in European armies following the 1681 Treaty of Limerick) to the extensive

⁷ http://www.egyptologyonline.com/the_army_in_ancient_egypt.htm
Accessed: 2008-08-21

⁸ Harkwood is the subject of an in depth history in (Scott 1889).

use of mercenaries by all sides during the Napoleonic Wars.⁹ Mercenaries were also very active in colonial settings – from the Hessians used by the British during the American War of Independence (Bergner 2005, p. 2), to a string of European adventurer-soldiers such as Henry Ronald Douglas McIver, who served in Asia, the Americas, Europe and Africa.¹⁰ It is interesting to note that the large organised bodies of mercenaries dwindled in the early 19th Century. It is arguable that this was partly a result of the settling of Europe into relative peace, which reduced the market for mercenaries. It was also a period in which the notion of sovereign rule as advocated in the treaty of Westphalia in 1648¹¹ began to gain prominence, allowing for the establishment of more advanced inter-state politics and increased prominence of the ‘citizen army’ (Percy 2007, pp. 121-122), which made Europe a less fertile ground for mercenary activity of the traditional sort from previous centuries.

Outside of Europe, the 19th century saw an interesting range of mercenary activity, from the individual men of fortune who made names for themselves in China and across Africa, to the government-allied men involved in Cecil Rhodes’ British South Africa Company (BSAC) and the famous Flying Tigers who fought for Chiang Kai-shek against the Japanese prior to the US entry into WWII. The British South Africa Police served as a private army of sorts for the BSAC in the First and Second Matabela Wars and continued to exist as a part of Rhodesia (which was afforded colony status in 1923 eventually becoming Zimbabwe).¹² Until 1923, members of the BSAP were paid by the company as mercenaries.

Before the United States became involved in the Second World War, US airmen were granted a leave of absence by the USAAF to join the American Volunteer Group, set up by the Roosevelt government to assist China, and were paid not only service wages but also bounties by a Chinese company serving as a front for the Chinese

⁹ See *Napoleon’s Mercenaries* by Guy Dempsey (2002) for an exhaustive study of foreign troops serving in the French *Grand Armée*.

¹⁰ McIver is the subject of a biography: (Davis, 1906).

¹¹ Treaty of Westphalia (1648). The Avalon Project. Yale Law School.
<http://www.yale.edu/lawweb/avalon/westphal.htm>

¹² Taken from the BSAC background provided by the British South African Police Abbreviated Website History. <http://www.bsap.org/Bsaphistory.html>, Accessed, Nov 02-08.

government.¹³ The notion of bounty is synonymous with the traditional idea of mercenarism. Typically, a mercenary was a specialised, highly trained soldier and would thus receive pay commensurate with his specific talents. In the case of mercenaries being defined merely as soldiers for hire working in the service of a state not their own, their pay might not have been any different to that received by regular soldiers. That being said, it was often the case that mercenaries were able, if not encouraged, to enrich themselves through looting, bounties and other forms of brigandry. This trend, while generally outlawed as time progressed in Europe, continued and flourished in other arenas in later years and is especially notable in the actions of mercenaries serving in post-colonial Africa.¹⁴ The forms of payment that mercenaries enjoyed were major contributing factors to the poor moral reputation that is ascribed to traditional mercenaries.

Post-Colonial Mercenarism

Following World War Two, post-colonial Africa provided the ideal weakened-state political terrain in which mercenarism could flourish. It is here that men like ‘Mad Mike’ Hoare, ‘Black Jack’ Schramme, the infamous ‘Colonel Calan’ and Bob Denard cut a swathe through the African landscape (Bruce 2002) – creating an immortal romance with the image of the mercenary in the West, and a brutal reputation of terror in Africa. This disparity in perceptions remains today. Popular culture embraced an image of the mercenary, which it developed and romanticised with films and books like *The Wild Geese* (1985 film), *Dogs of War* (the 1974 Frederick Forsythe book, and the 1981 movie based on it) and *Dark of the Sun* (a 1965 Wilbur Smith novel turned into a movie in 1968).¹⁵ The same kinds of general brigandry that existed in Europe during the hey-day of the Free Companies were revisited here as these men found themselves stronger and better armed than many of the states in which they operated.

¹³ Retrieved from the U.S. Centennial Flight Commission, from an article entitled “Claire Chennault and the Flying Tigers of World War II” compiled by P. Feltus assumedly in 2003. http://www.centennialofflight.gov/essay/Air_Power/tigers/AP24.htm
Last accessed 21-08-08.

¹⁴ A practise mentioned repeatedly by Jerry Puren in the biographical book *Mercenary Commander*, written by Brian Pottinger (1986).

¹⁵ These books and movies have remarkable links to the realities of the mercenary activity they portrayed. *Wild Geese* was based on the similarly named *Wild Geese* commanded by Mike Hoare during the Congo Crisis and he was persuaded to join in the production as a technical advisor. *Dogs of War* was lent a peculiar degree of authenticity as a result of Forsyth’s ‘research’ which allegedly involved planning a real coup. *Dark of the Sun* is based in the context of the Congo Crisis and a mission to rescue Belgian citizens caught up in the chaos. It features a ruthless German character who was based on a real mercenary, one Siegfried “Kongo” Mueller, who took part in the Crisis.

The chaos of the Congo Crisis saw mercenaries fighting for all sides in the confused conflict¹⁶. At stages in this conflict mercenaries actually fought against the United Nations peacekeeping forces sent to the region, which undoubtedly contributed to the historically negative perception of mercenarism held by the UN.¹⁷ These notable individuals and their semi-formalised ‘units’ of men in turn gave way to (more corporately structured) companies like Executive Outcomes who operated in Angola in the 1990s and most famously, in Sierra Leone in 1994. It is with Executive Outcomes that many people consider the beginning of the PMI – the rise of the first Private Military Company (Bergner 2005 p. 3).

Rise of the PMI¹⁸

A quick examination of the history of Executive Outcomes¹⁹ reveals much about the development of the Private Military Industry. Following the end of the Apartheid regime, the South African Defence Force²⁰ began dismantling its special operations units, including 32 Battalion, the infamous ‘Koevoet’, as well as the Special Forces Brigade and the somewhat sinister Civil Cooperation Bureau of which Eeben Barlow, EO’s founder, was formerly a part. Barlow began a process of recruitment from these units and soon established a comprehensive roster of highly trained, highly experienced individuals. EO offered protection services specifically to resource extraction operations (mining in particular) in conflict states. It is commonly alleged that mining concessions featured prominently in EO’s payment – a matter disputed by its founder in his autobiography (Barlow 2007, pp. 356, 367, 372, 380, 531). The notion of mercenaries ‘plundering’ a region and its natural resources is a pervasive image that has carried over from ancient mercenarism, to the post-colonial mercenaries and the PMI. Aside from training troops in several states, EO was involved in operations in Angola and most famously, Sierra Leone. Here, they took the place of the departing Ghurkha Security Guards and were instrumental in driving

¹⁶ See Bloomfield and Moulton (1999) at http://web.mit.edu/cascon/cases/case_con.html for an overview.

¹⁷ Again described in first person detail by Jerry Puren in (Pottinger 1986, pp. 32, 56-57, 82-86).

¹⁸ Chapter title inspired by Singer’s *Corporate Warriors: The Rise of the Private Military Industry* (2003)).

¹⁹ I rely heavily here on Eeben Barlow’s 2007 *Executive Outcomes – Against All Odds*. Much of the information relating to the establishment of EO, and its subsequent activities are clouded by misinformation and confused journalism. My reliance on Barlow’s text simply offers a single clear perspective on EO.

²⁰ Now the South African National Defence Force.

back the Revolutionary United Front rebels (Barlow 2007 pp. 318-320). It is this case that is commonly brought up on the side of the PMI in arguing the benefit of specialised, privatised, quick reaction forces, specifically for humanitarian interventions.²¹

Executive Outcomes shut down in 1999. It is commonly believed that this was a result of the introduction of the 1998 *Regulation of Foreign Military Assistance Act* enacted by the South African Government to curb mercenary activities, not to mention the extensive ‘bad press’ that the company was receiving. Barlow denies this, pointing out that, at the time, the company still had a government-issued license to continue with its work. Instead he claims there was a conflict of interest within the company. (Barlow 2007, pp. 517) While the Act itself was not necessarily enough to prevent mercenary activity, particularly under the guise of Private Contractors, the company itself had become too prominent to hide under the radar. Several companies emerged to take the place of Executive Outcomes, including Sandline International which, through founder Tim Spicer, an alleged associate of Barlow and EO, continued to push the shift in public perception around Private Military Companies in contrast to traditional mercenaries (Scahill 2007, p. 362) including the publication of ‘white papers’ promoting the peacekeeping possibilities offered by the PMI.²² Sandline was also embroiled in several controversial events including the 1998 ‘Sandline Affair’.²³ Sandline closed in 2004 and many of its personnel (including Tim Spicer) moved over to Aegis Defence Services (ICIJ 2002), which has in turn suffered a degree of scandal in the recent past, including the discovery of ‘trophy videos’ taken by contractors, showing indiscriminate shooting from moving vehicles at civilians and civilian vehicles.²⁴

The most prominent name in the Private Military Industry at the moment is Blackwater Worldwide – the eponymous example of the multifaceted, government

²¹ Sierra Leone is the subject of much study from all sides in the PMI debate. For a particularly in depth examination, see (Spearin, 2006).

²² <http://www.sandline.com/white/index.html>

²³ Detailed in an article titled “The PNGDF in Troubled Times” which appeared in *The Asia-Pacific Magazine* in 1997. Accessed 21-08-2008 at http://epress.anu.edu.au/sspng/mobile_devices/ch10.html.

²⁴ ‘Trophy videos exposes private security contractors shooting up Iraqi drivers’ - Rayment, S. *Daily Telegraph*. November 25th, 2005. <http://www.telegraph.co.uk/news/worldnews/middleeast/iraq/1504161/Trophy-video-exposes-private-security-contractors-shooting-up-Iraqi-drivers.html>

connected, corporate modelled Private Military and Security Company. At the time of writing this, I would contend that Blackwater (Worldwide) is the evolutionarily pinnacle of the contemporary PMSC. It is for the time being economically secure in its dealings through a myriad of government level policies brought about through careful political manoeuvring which in turn lends political and legal security.²⁵ Blackwater has been involved in American activities in the Global War on Terror in both Afghanistan and Iraq, offering multiple services, from Protective Services Detail (PSD)²⁶ to the training and provision of masses of security guards. Blackwater is best known for its presence in Iraq, gaining prominence as L. Paul Bremer's bodyguards during his time as head of the Coalition Provisional Authority (Scahill 2007, pp. 61-80) and later in the Fallujah killings (Scahill 2007, pp. 95-104), the Najaf firefight (Scahill 2007 pp. 122-120) and the Nisoor Square shooting (Glanz 2007). They have also been involved in Afghanistan, with security details and logistical support (Scahill 2007, pp. 43-47) and the controversial 'Blackwater 61' crash in November 2004 (Scahill 2007, pp. 236-249). Blackwater was also highly visible in its employment as riot police (of a sort) in the aftermath of the Katrina disaster in New Orleans (Ibid pp 321-332). On top of these functions, Blackwater retains its original role as a provider of high-level training to police and federal enforcement officers, and other branches of the US military and government.²⁷ It has had its fair share of controversy but through the economic, legal and political security that it enjoys, it has been largely able to dismiss or ignore these complaints.²⁸

Private Military and Security Companies can be described as part of an evolution of mercenarism to encompass modern privatisation and corporate trends in an altered global political environment. In other words, the contemporary PMI entails the privatisation of (military) force on a corporate level, following a corporate model and corporate trends relating to business behaviour and practice as dictated by an evolved

²⁵ As with EO, much of the details relating to Blackwater are clouded by confused journalism. I rely heavily on Jeremy Scahill's exhaustively researched *Blackwater – The Rise of the World's most powerful Mercenary Army* (2007) as it offers an impressive level of filtered detail on the company.

²⁶ Or alternatively, a Personal Security Detachment, depending on which branch of the armed forces you are from.

²⁷ For an extremely in depth exploration of Blackwater, see (Scahill 2007). This description of the company's activities relies heavily on this book.

²⁸ Transcript from a DemocracyNow! Newscast featuring Jeremy Scahill regarding the Nisoor shooting and its half-hearted investigation by the U.S. DOJ, aired October 2007. http://www.democracynow.org/2007/10/11/exclusive_family_members_of_slain_iraqis

global political, economic and social environment. This set of new market environment factors is described in the introduction to *Private Military and Security Companies – Ethics, Policies and Civil-military Relations* (2008) as follows:

In the developing world, the end of the bi-polar international order removed the incentive that the sole remaining great power had to gain influence over the rulers of small states by providing them with the resources they need to secure themselves against usurpation. Consequently, in fragile states, particularly in Africa, where governments possess only tenuous legitimacy and limited coercive power, state and non-state actors alike have been forced to look for other providers of security. Finally, the dissolution of a tight-knit international order of states has stimulated ‘new wars’ involving non-state actors, such as religious or ethnic based organisations. (Alexander *et al*, 2008 p.2)

In a 2008 essay entitled *Security: Intervention and Control*, Herbert Wulf offered several causes and motives for outsourcing which appeal to the idea of a drastically changed global climate. Large numbers of qualified military personnel, in the sphere of modern war fighting and facing the intensified demand for armed forces in the ‘war on terror’ as well as the demand created by weak or besieged governments has created a viable market for the PMI. Moreover, public opinion and increased media coverage has played a role in motivating against the use of ‘home troops.’ (Wulf 2008, pp.193-194)

Peter W. Singer, considered to be a foremost authority on the rise of what he refers to as the ‘Corporate Warrior’, coined a ‘tip of the spear’ typology of the different iterations of PMCs to show the increased complexity of the Private Military Industry (Singer 2003, pp. 91-93). He established three categories: Military Support Firms, Military Consultancy Firms and Military Provider Firms. Getting past the corporate language, this refers to the logistical support, tactical and strategic resource consultancy and actual warfighter capabilities, respectively. In other words, PMCs can provide logistical support (as with Kellogg-Brown and Root), a consultancy function (as with Military Professional Resources Incorporated) and the more familiar fighting capacity (as offered by Executive Outcomes, Sandline, Aegis and the

ubiquitous Blackwater Worldwide). This increased complexity has served to create a ‘grey’ area in the definition of PMSCs that I will deal with in Chapter Two, which examines the debate on whether or not the PMI is significantly different to traditional mercenarism, and if this difference warrants an updated ethical appraisal.

In this historical study of the development of the PMI, I have provided overviews of both Blackwater and Executive Outcomes to illustrate the evolving nature of the industry. Not only does the PMI differ greatly from ancient mercenarism, but also to the relatively recent post-colonial ‘Dogs of War’ lack the corporate complexity exhibited by military contractors of the 1980’s, 90’s and more recently. Executive Outcomes is commonly described as “the model on which all Private Military Companies operating in Iraq and Afghanistan are based” (Barlow 2007, Back Cover). Executive Outcomes was in many respects very similar to Blackwater, and yet there are differences. Different historical, developmental and environmental factors have a role to play here, but the single biggest difference between the two has to do with whom these companies are/were employed by. Herbert Wulf differentiates between two principally different types of privatisation of force. The first, he categorises as

bottom-up privatisation, which could also be categorised as pre-modern, describes activities of non-state actors who use violence for their own political or economic gain. Usually, these actors operate without authorisation of state authorities or even against their explicit wishes, but occasionally representatives of the state system are accomplices. The police and military forces are too weak, too corrupt or unwilling to exercise the rule of law and the state monopoly of violence. (Wulf 2008, p. 192).

The second type of privatisation he calls:

top-down or post-modern privatisation, (which) is purposely planned and implemented by governments. The aim is to outsource traditional military and state functions to private companies. These companies offer a wide range of services: they provide not only logistics for armed forces on the battlefield, but also protection for non-state institutions such as international agencies and humanitarian organisations in post-conflict societies, for governments in their

fight against rebels or insurgents, as well as for multinational companies. (Wulf 2008, p. 192).

Wulf's differentiation is quite easily applied to Blackwater – clearly falling under the classification of an example of post-modern privatisation, particularly with its strong, integrated relationship with the U.S. government that stems as much from its political origins, as its patriotic marketing campaign. Executive Outcomes is a little less easily classified. It's early contract in Angola providing security for the retrieval of equipment owned by Heritage Oil & Gas/Ranger Oil in Soyo in 1993 (Barlow 2007, pp 89-123) was conducted in conjunction with Angolan Armed Forces (FAA) which seems to give it similar characteristics to post-modern privatisation. But, in Angola (as with Sierra Leone), the state in question exhibited weak governance, and of course Executive Outcomes would go on to clash repeatedly with it's home country's wishes.²⁹ While this kind of blurring of the lines hardly threatens Wulf's differentiation, it does hint at the role circumstance play in how a PMSC is perceived. EO found itself originating from a country with a especially negative outlook on mercenaries, and was forced to work for various masters as a result. Blackwater finds itself in partnership with a government that has historically welcomed outsourcing of military functions and has therefore been able to profit from, and seek protection behind this partnership. I raise this point to illustrate how difficult it is to clearly define aspects of the PMI, a problem which continues to hinder progress on the debate.

Legalities of the Private Military Industry

This section will briefly sketch the legal aspect of the PMI debate. This incorporates both national and international law. This is crucial, given the transnational nature of the industry. 'Local' legal interpretations of the PMI or mercenarism is complicated by particular social and political biases and historical background, The problems that arise out of trying to apply International Law to the industry are numerous. Here, the confusion is both a matter of ambiguous and subjective legal definitions, and of

²⁹ A point repeatedly made by Barlow, relating the continual harassment EO faced from the South African government and especially its Military Intelligence branch.

attempting to extend these definitions on a global scale. States often reject or simply ignore international treatment of the industry.³⁰

In international law the relevant bodies of legislation are directed at the distinctions between combatants, non-combatants and unlawful combatants; and in the treatment of mercenaries and mercenarism itself. The bodies of law that are important are therefore the *1949 Geneva Conventions Article 47* and the *United Nations 1989 Mercenary Convention*³¹ respectively. The problem here is that the UN ‘Mercenary Convention,’³² was a reaction to post-colonial mercenary activities, and many feel has not been updated to incorporate a changed global reality.³³ With regards to the Geneva Conventions, the *1977 Additional Protocol*,³⁴ specifically relates to mercenaries in referring to them as civilians who take part in hostilities motivated by a desire for private gain. Within the Geneva Conventions mercenaries are considered unlawful combatants and therefore not afforded the POW status of lawful combatants. This then can be taken in conjunction with the UN perception of mercenaries as a source of instability and human suffering and therefore outlawed (a status that has been ratified on several occasions through Special Rapporteur mandates).³⁵ This then forms the body of legislation which is designed to deal with mercenarism, but as Todd Milliard asserts, these perceptions and categorisations are outdated and preoccupied with the post-colonial iteration of mercenarism and is therefore unable to effectively and practically deal with the modern PMI. Milliard asserts that the UN ignores the thousands of years of ‘legitimate’ mercenary use and instead focuses on the post-colonial period. (Milliard 2003, p. 34)

³⁰ As is the case in the US rejection of the UN Report on mercenary activity.

³¹ International Convention against the Recruitment, Use, Financing and Training of Mercenaries A/RES/44/34 72nd plenary meeting 4 December 1989 (UN Mercenary Convention) Entry into force: 20 October 2001.

³² International Convention against the Recruitment, Use, Financing and Training of Mercenaries A/RES/44/34 72nd plenary meeting 4 December 1989 (UN Mercenary Convention) Entry into force: 20 October 2001.

³³ Todd Milliard explores this topic in depth in *Overcoming Post-Colonial Myopia: A call to recognise and regulate private military companies*. (Milliard, 2003).

³⁴ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

<http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/f6c8b9fee14a77fdc125641e0052b079>

³⁵ I’m referring here to (Ballesteros, 2003) and (Shameem, 2005) – both ‘UN Special Rapporteur on the use of mercenaries as a means of violating humans rights and impeding the exercise of the right of peoples to self determination’.

There is also the added confusion of subjective local interpretations of the PMI. African states are aligned with the UN in outright condemnation of the PMI through the OAU/AU.³⁶ South Africa, for instance, has taken steps to update its legal framework in order to accommodate a modern interpretation of mercenarism, but has chosen an explicitly negative perception of the industry. In 1998 the South African Government enacted the *Regulation of Foreign Military Assistance Act*. This was updated in *The Prohibition of Mercenary Activities and Regulation of Certain Activities in Country of Armed Conflict Act*, 2006 (Act No. 27, 2006), ratified 2007. This act is designed to close off all potential loopholes relating to South African citizens becoming involved in PMI activity. The heavy handed nature of this response is attributable to a knee-jerk reaction to political pressure and the historical legacy of mercenaries on the continent from the days of the ‘dogs of war’ through to the heydays of Executive Outcomes, and is often criticised as overly crude and clumsy in its execution.³⁷ At the same time, South Africa is still a major provider of men to the PMI with estimates ranging up to the thousands of citizens involved in PMI activities in Iraq currently.³⁸

The United States occupies the opposite end of the spectrum. The U.S. has a historical relationship between private contractors and its military albeit mostly in a logistical capacity. This has changed dramatically in the past two decades and the United States now officially incorporates the PMI into its foreign policy (ICAF 2006). It is notable that the US did not sign the 1989 UN ‘Merc Convention’, nor was it a party to the 1977 *Additional Protocol*. In Iraq, for instance, one of Paul Bremner’s final acts as head of reconstruction was to enact CPA Order 17 which effectively gave contractors associated with the Coalition Provisional Authority or the US, immunity from Iraqi Law.³⁹ This immunity extended from traffic violations (illegal driving is a typical facet of Private Security Detail operations for instance) to the use of lethal force. The full extent of this immunity was tested in 2007 by Blackwater Worldwide operatives

³⁶ In the form of the OAU Mercenary Convention (*1977 – OUA Convention for the Elimination of Mercenarism in Africa*).

³⁷ This was a comment made by several members of the Industrial College of Armed Forces study group visiting South Africa in 2007, particularly at a seminar at the Institute of Strategic Studies.

³⁸ ‘Privatised War: The South African Connection’, an article published on Znet by Andy Clarno and Salim Vally in 2005 mentions a UN Report which, at the time put South Africa in the top 3 providers of manpower to the PMI. <http://www.zmag.org/znet/viewArticle/6742>

³⁹ Jeremy Scahill (2007) makes specific reference to this moment as a crucial step in the massive expansion in the PMI.

in what is now known as the Nisoor Square shootings.⁴⁰ A Blackwater convoy was escorting a VIP when it opened fire resulting in the deaths of several Iraqi civilians. The cause and nature of the shooting is in dispute, as are the casualty figures as well as several other aspects of the event (Singer 2008, p. 1). Regardless, Blackwater contractors are (for the time being) immune from Iraqi prosecution and will not face an Iraqi court. Instead they are technically subject to prosecution by US courts (formalised by a 2007 U.S. House Bill which confirmed private contractors to be subjective to US law). This was to be conducted as part of the Uniform Code of Military Justice, but as of 2006 the specifics of the UCMJ relating to contractors changed such that the Military Extraterritorial Jurisdiction Act (MEJA)⁴¹ then became the relevant legal body of prosecution. Even then, this is difficult to implement as the legal structures in place require a clear chain of evidence which is likely to be impossible considering that a U.S. Court would almost inevitably find evidence produced by Iraqi investigators to be inadmissible. (Singer 2008, p. 12) At present, there is very little legal recourse available for the purposes of regulating the PMI.

Clearly the UN has a strongly set opinion of mercenarism and of the PMI but at the same time, this inflexible stance has led to a 'grey area' which the United States, for example, has exacerbated by its rejection of international law regarding mercenarism.⁴² This has collectively contributed to the overall rise and establishment of an expansive PMI market, which is unlikely to fade away or accept total abolishment.

Conclusion

The historical origins of mercenarism reveals the evolutionary process that has occurred, arriving at the modern PMI. Ancient mercenaries have given way to the post-colonial 'dogs of war', which has dominated the modern perception of mercenarism. The rise of the PMI through the likes of Executive Outcomes and Blackwater Worldwide, has created a rift between this notion of post-colonial mercenarism, and the contemporary industry. This rift manifests in the ambiguous

⁴⁰ See Glanz and Sabrina (2007) and Glanz and Rubin (2007) for more on this event.

⁴¹ <http://www.pubklaw.com/hi/pl106-523.pdf>.

⁴² Higgins, A (2007). "US rejects UN mercenary report" USA Today www.usatoday.com/news/world/2007-10-17-3392316246_x.htm Accessed 24-06-08.

legal treatment of the subject at both the domestic and international levels. At its core, the legal debate revolves around the issue of defining (or redefining) precisely what a ‘mercenary’ is. Without this definition, a regulatory framework is impossible to implement. This is a major hurdle for the industry, and therefore, to the proposal of privatised peacekeeping. The question raised from this, is *why* this issue of arriving at a definition is so complicated. This is approached in the form of an ethical evaluation in the next chapter.

Chapter Two

The Ethics of Privatising Control of Force

Introduction

In this chapter I give an overview and evaluation of the main ethical arguments that have been raised regarding the rise of the PMI. There are several main strands of argument here, covering various often-interlinked areas of debate. The purpose of this chapter is to establish the ethical terrain of the PMI and mercenarism debate in order to move into the question of the ethicality of privatised peacekeeping.

One major strand of argument revolves around the question of mercenary morality. Are mercenaries intrinsically immoral individuals? Is their morality inherently attached to the ethicality of their actions and concordantly, is the very concept of mercenarism immoral by definition? These are essentially deontological questions. Another strand of argument focuses on whether the modern PMI should be defined in the traditional terms of ‘mercenarism’. Is there a difference, and does this difference warrant a different ethical perspective on the Private Military Industry? This leads to questions of justifiable privatisation of force, which is pertinent to the overall consequentialist aspect of this dissertation.

Defining the PMI in relation to traditional mercenarism highlights a potential trend: Even if mercenarism can be declared intrinsically immoral, perhaps the PMI can claim some mitigating moral legitimacy in its contemporary format. And from that, perhaps Privatised Peacekeeping can, in turn, lay claim to ethical justification. If nothing else, exploration of the beginnings of this potential slippery slope to legitimacy will establish some useful focal points and criteria with which to evaluate the notion of privatised peace support.

There is also a consequentialist argument that covers both traditional mercenarism and the PMI. It judges the privatisation of force along prudential lines, specifically in terms of its effect on the state. Thomas More described his “wise Utopians”⁴³ utilising mercenaries as the most effective step in directing risk away from the state’s

⁴³ Coady mentions this in “Mercenary Morality”. He refers to More, T. (1972). *Utopia*. Penguin, Harmondsworth. P. 112.

populace. Machiavelli felt the opposite, that mercenaries were poor soldiers, a danger to their employer and ultimately a danger to the moral character of the state itself.⁴⁴ Much work has been generated by these charges. This argument tends to involve concern over the state's monopoly over the control of force as part of the civil-military relations framework.

The ethical debate around mercenarism and the PMI is broken down in this chapter as follows: First, a range of deontological arguments concerned with the intrinsic morality of mercenaries and mercenarism that revolves around motive and justification. Second, a series of efforts at differentiation between traditional mercenarism and the modern PMI, which appears to attempt to circumvent deontological concerns about mercenarism with utilitarian justifications for its existence and increasingly sophisticated appeals to notions of globalisation and privatisation trends, and corporatisation and the CSR that goes with it. And finally, a range of consequentialist arguments that overlap the PMI vs. mercenarism debate, and examine the effects of privatisation of force on systems of civil-military relations.

Mercenary morality

In the introduction to *Private Military and Security Companies* (Alexandra et al 2008), Andrew Alexandra, Deane-Peter Baker and Marina Caparini note that, despite the lively debate on the topic of the ethics of war that has taken place since the publication of Michael Walzer's *Just and Unjust Wars*, there has been strikingly little said about the ethics of mercenary participation in conflict, but rather a "tendency to accept the popular and legal assessment of mercenaries as morally reprehensible, if not completely unacceptable." (Alexandra et al 2008, p. 3). Anthony Coady examined this topic back in 1992 in the aptly titled paper *Mercenary Morality* (Coady 1992). Here he posed questions relating to the moral nature of mercenaries and their motivations and of the concept of mercenarism itself, drawing from and targeting writing on the topic by Niccolo Machiavelli which, as many writers contend today, tended to erroneously criticise Italian Condottieri. Machiavelli's fundamental argument against mercenaries is described by Baker as threefold (Baker 2008, p. 33):

⁴⁴ Machiavelli, N, *The Prince* (2005), ch. Xii:

<http://www.constitution.org/mac/prince12.htm> (Accessed 17-08-08)

That mercenaries are not sufficiently bloodthirsty; that mercenaries cannot be trusted because of the temptations of political power, and that there exists some motive or motives appropriate to engaging in war that mercenaries necessarily lack, or else are motivated by some factor that is inappropriate to engaging in war.

The first two arguments are easy enough to deal with, as Baker does in *Of 'mercenaries' and prostitutes* (Baker 2008). The first: that mercenaries display insufficient bloodthirstiness, is considered a false assertion stemming from Machiavelli's experience of Italian Condottiere. As Baker points out, this hardly constitutes a moral transgression either (other than perhaps lending itself to some sort of *caveat emptor* for the industry). The second argument is likewise untenable – there is no reason to believe that mercenaries are any more or less likely to be tempted by political power. The final argument however, points to the question of sufficient motive, and provides an area for serious ethical enquiry. Tony Lynch and A.J. Walsh tackled this topic in their paper *The Good Mercenary* in 2002. In this article they adopted what they referred to as a position of 'anti-anti-mercenarism', rather than either promoting or defending mercenarism itself. Walsh and Lynch approached questions of justification and motivation as a major theme of the debate. This is a commonly raised argument about the intrinsic immorality of mercenarism in that it is fundamentally motivated by monetary or material gain, which is seen as insufficient cause for violence from even a non-pacifist perspective which might advocate self defence or other iterations of Just War Theory.⁴⁵ In dealing with this question, Walsh and Lynch pointed out that the notions of 'just cause' or 'right intention' seemed to be idealistically set out to presuppose such things are necessarily only attainable by statist institutions. (Lynch and Walsh 2002, pp. 139-140) In addition, they took a similar line of argument as Coady in pointing out that the notion of mercenaries functioning purely as 'lucrepaths'⁴⁶ need not necessarily be true. In fact, both articles argue that the idea of a 'just mercenary' is in no way illogical or inconceivable (Baker 2008, p. 41).

⁴⁵ See Joseph Runzo, *Benevolence, Honourable Soldiers and Private Military Companies – Reformulating Just War Theory*, in Alexander *et al* (2008), for an examination of Just War Theory. Here, Runzo tries to incorporate the PMI phenomenon, along with other factors in contemporary warfare including terrorism and humanitarian intervention into the evolving ethics of modern warfare. I will return to this in later chapters.

⁴⁶ Lynch and Walsh describe individuals motivated by money above all else as 'lucrepaths'. (Baker 2008).

Lynch and Walsh also targeted several other typical anti-mercenary arguments including prudential concerns such as those raised by Machiavelli about the efficiency and trustworthiness of mercenaries, not to mention the effect that mercenarism would have on the state institution. This constitutes a bridge between their examination of anti-mercenarism arguments based on supposed intrinsic immorality, and consequentialist arguments relating to the matter. In examining “undesirable ramifications of the martial profit nexus” (Lynch and Walsh 2002, p. 143) they dismiss many of the arguments raised by Machiavelli about the suitability of mercenaries, in a similar manner to Baker, and going as far as to offer a ‘hidden hand’ aspect of mercenarism which shows that mercenaries could very well have less killing motive than state-controlled forces, and as such ultimately the “moral economy of a mercenarist world would appear to be preferable to that of the Statist societies we currently inhabit” (Lynch and Walsh 2002, p. 53).

Mercenaries or Private Military Contractors?

Both Coady, and Lynch and Walsh, consider the traditional notion of mercenarism and the modern form taken by the PMI. There are certainly differences in appearance, but how substantial is this difference in reality and is the difference between the two relevant, ethically speaking? Uwe Steinhoff approaches this question in an essay in which he attempts to answer the question: What is a mercenary? (Steinhoff 2008) He concludes that morally speaking; modern PMI actors are cut from the same cloth as ancient mercenaries. Deane-Peter Baker describes PMSCs as “the mercenary band’s more sophisticated cousin” (Baker 2008, p.30) but Steinhoff argues that the differences between classical mercenarism and the modern PMI has been exaggerated (Steinhoff 2008, p. 20). Steinhoff targets a definition of the mercenary offered by Francois Hampson⁴⁷ which he notes is typical of the standard definition of a mercenary and moreover, corresponds “more or less to the one given by Article 47 of the 1977 Additional Protocols to the Geneva Convention.” (Steinhoff 2008, p. 20) By this definition mercenaries are taken to have three essential characteristics: “They are foreign, motivated principally by financial gain and use force, but not as regulars of the armed forces of a State.” (Steinhoff 2008, p. 20). In his exploration of this typical

⁴⁷ Steinhoff refers to Hampson’s definition of mercenarism, coming from Hampson, F.: “Mercenaries: Diagnosis Before Proscription”. *Netherlands Yearbook of International Law*, 1991, Vol. 2, pp 5f.

definition of a mercenary, Steinhoff systematically refutes each criterion of the Hampson definition. He begins with:

The first element distinguishes mercenaries from members of the indigenous population who may take up arms for reasons of monetary gain. (Steinhoff 2008, p. 20).

Here, Steinhoff takes issue with both the stipulation of ‘indigenous populations’ and the ‘monetary gain’ aspect. Calling on empirical support of his doubts about the term ‘indigenous’, he shows that the stipulation of ‘indigenous’ is ambiguous to the point of uselessness (Steinhoff 2008, p. 21 – specifically footnote 8). In terms of his doubts about the issue of ‘monetary gain’ as a defining motive, he is supported by accounts from actual mercenaries describing their motives, as well as the logical arguments against lucrepathic mercenaries raised by Coady, Lynch and Walsh, and Baker.

This theme of motive brings us to another morally relevant distinction in the Hampson definition:

The second characteristic would exclude volunteers who fought for ideological reasons or out of a sense of adventure. (Steinhoff 2008, p. 20)

Here, Steinhoff calls on more empirical support to show that, for instance, mercenaries like Count von Rosen were “so selective about the wars they fight in that they can hardly be distinguished from ideologically motivated volunteers.” (Steinhoff 2008, p. 22) Steinhoff concludes that this aspect of the Hampson criteria is also insufficient.

In addition, he criticises the final element of the Hampson criteria:

The final element distinguishes mercenaries from the armed forces of a State involved in a conflict within another State and from foreigners serving as an integral part of the armed forces of a State, such as the French Foreign Legion and the Ghurkha regiments in the British army. It also excludes individuals

who train or advise the armed forces of a State, on condition that they do not themselves use force. (Steinhoff 2008, p. 20)

Steinhoff deals with this final element in two parts. First, he questions the definition of force, which, in a sense, hints toward the typology of services in the PMI introduced by Peter W. Singer. Steinhoff's argument is that outright hostile action is not a necessary requirement to be considered a mercenary, and specifically that

It is sufficient to sell the service of taking part in the hostilities and to be ready to take part in the hostilities. (Steinhoff 2008, p. 24)

It is unclear here if he specifically considers the provision of martial support functions to be the same as actually taking part in violence. This then would reduce the logistical support and training aspects of Singer's typology to merely complicated iterations in the same spirit of mercenarism which is certainly in line with Steinhoff's argument against Singer's opinion of the PMI for the remainder of *What are mercenaries?*. In dealing with the first half of Hampson's final element, Steinhoff sets up this attack further by noting that the exclusion of entities like the Ghurkas or the French Foreign Legion opens up a loophole in the definition of a mercenary. Executive Outcomes employees were simply granted official employment in the Papua-New Guinea state forces, which rendered them technical legitimacy according to the Article 47 definition (Steinhoff 2008, p. 24), Steinhoff asks how this act (or trick as he can't resist suggesting) can transform mercenaries into regular soldiers and in particular, where the moral significance lies in such a transformation.

Peter W. Singer has already been mentioned in this dissertation for his work in developing a comprehensive picture of the PMI. Steinhoff targets Singer's assertion that the PMI is in fact a different phenomenon to classical mercenarism. Steinhoff describes and then argues against several differences that Singer lists. Basically, Singer's argument is that the corporate nature of the industry creates specific and unique characteristics which traditional mercenarism cannot match. For instance, he argues that:

Several distinguishing characteristics follow from this corporatization ... PMFs⁴⁸ are ordered along pre-existing corporate lines, usually with a clear executive hierarchy that includes board of directors and share-holdings. This creates a tested, efficient, and more permanent structure that can compete and survive in the global marketplace.⁴⁹

Steinhoff asserts that these differences are exaggerated, that PMSCs have no claim to superior efficiency and permanence nor does the implication of a business profit motive separate it from the individual profit motives that drove classical mercenaries. It can be argued that Steinhoff is too hurried in his dismissal here, that he focuses on the profit motive aspect of corporatization without paying suitable attention to the other accoutrements of the 'corporate lines' described by Singer. Certainly, the elements of Corporate Social Responsibility and internal and external regulation are hinted at here. Christopher Kinsey pays particular attention to this theme in *Private security companies and corporate social responsibility* (Kinsey 2008, pp. 71-86), which I will look at later in this chapter.

Steinhoff's search for a definition of a mercenary that takes into account the PMI and modern global trends reveals a great deal about this particular area of debate and shows how the failure to provide a clear, robust and modern definition – one which does not fall back into 'traditional' responses to mercenarism – has resulted in much of the political and legal confusion on the topic.

Civil-Military Relations and the Control of Force

A consequentialist, rather than deontological approach to the question of mercenary morality results in questions about justification and legitimacy in a prudential sense, questions which emphasise the consequences of the use of mercenaries. One of the benefits of this approach is that it is able to better encompass contemporary aspects of the PMI, both in terms of its nature, and of the nature of the environment in which it exists. Moreover, this approach allows for a potential escape from the debate around differentiating between the PMI and mercenarism.

⁴⁸ Private Military Firms – a favoured name for PMSCs at the time that Singer Published *Corporate Warriors*.

⁴⁹ Steinhoff, in Alexandra *et al* (2008), p. 25. A quote that he has taken from Singer's, *War, Profits and the Vacuum of Law*, p. 45.

This consequentialist stream of argument hinges on Civil-Military relations and specifically, on the concept of the state's monopoly over the control of force. Machiavelli's theme of moral decay is carried through to the modern PMI by writers like Deborah Avant, who place particular emphasis on the effects of the private control of force on political stability.⁵⁰ Max Weber incorporated the *monopoly over the control of force* into his very definition of a state, (Weber 1964) something that the privatisation of force therefore appears to threaten by definition. Michelle Small (2006) makes this argument, voicing a concern that the PMI erodes the legitimacy of the state, even while it may, at the same time, be temporarily propping up a weak state (as in Africa), or streamlining a strong state's functions (as in the case of US). She goes on to conclude that the continued existence of the PMI serves to "forever alter the social fabric of the state, regardless of the numerous benefits and advantages that they may bring." (Small 2006, p. 28)

However, it is not necessarily the case that the very existence of privatised force threatens the integrity of the state. There is the argument to be made that this definition of the state, with its Westphalian notions of sovereignty, Hobbesian Social Contract thinking and the Weberian definition of the state, is in fact outdated, and that the relationship they extol has no place in the modern world. This modern globalised political environment, described by Herbert Wulf, complicates the debate further:

Globalisation and the ensuing erosion of the nation-state are a fundamental challenge to the efficacy of the state-oriented monopoly of force inasmuch as globalisation leads to de-nationalisation and promotes the relocation of authority, from the nation-state to supranational actors. (Wulf 2008, p. 196).

This seems to take the debate back in the direction of a multilateral organisation like the UN, which is certainly no healthier to the PMI than Small's argument against privatisation of force. On the other hand, it does show how the notion of democratic control of force has been obscured to the point where it can survive the tautological

⁵⁰ This is the focal point of *The Market for Force* (Avant 2005).

type of argument raised against privatisation (as fundamentally undermining the Weberian conception of state).

There is also evidence in the conduct of the United States to support the idea that outsourcing security functions traditionally ascribed to the state, need not necessarily concern the average citizen.⁵¹ This argument, as raised by Frost, seems specifically to relate to strong systems of democratic control of force, but what of the weakened state in the African context? There the question of democratic control is more a case of failed governance than the fault of the PMI – democratic control of force is simply not an option at that point. Frost goes on to argue that:

What matters is that the private company being used must be understood by me, the citizen, as being subject to the laws and regulations laid down by my legitimate (because properly elected) government, and must be seen as carrying out the tasks set by it. (Frost 2008, p. 49)

The question of the risk associated with the use of PMSCs, either by weak states or in the manner of the United States, to systems of control of force, is the source of much debate, particularly in the realm of International Relations. James Pattison refers to this first stream of argument as part of the *intrinsic* reasoning behind civil-military relations. There are also other streams of argument, which he refers to as *instrumental* (Pattison 2007), raised within the context of civil-military relations, which bear relevance to this discussion.

In *Outsourcing the Responsibility to Protect* (2007), James Pattison points to a lack of democratic accountability as a weak point in the use of PMSCs in humanitarian intervention. Pattison's concern revolves around two issues. First, that PMSCs allow governments to circumvent many of the constraints on the decision to employ force. In terms of separation of powers, the democratic system provides oversight on the use of force by a government. Pattison offers the example of the US allegedly employing PMSCs to conduct covert operations in Somalia as a possible way in which a

⁵¹ Mervyn Frost makes this argument in *Regulating anarchy: the ethics of PMCs* in Alexandra *et al* 2008, pp. 48-49.

government might use private actors to pursue international agendas without incurring the political penalties that might arise out of such a move. (Pattison 2007, p. 19)

Pattison's second reason concerns the control over how force is actually employed during an intervention. This concern revolves around the idea that lines of command and control become blurred by the client-contractor relationship. Pattison calls on Singer, who describes risks common to all forms of outsourcing, namely the incentive for hired firms to "overcharge, pad their personnel lists, hide failure, not perform to their peak capacity, and so on." (Singer 2003b, p. 1) Singer does make the point that this is particularly worrying in the context of the security realm. Arguably however, this is no different to the outsourcing of, say, healthcare services – at least in terms of risks to people's lives. Regardless of whether that is true, this point by Singer (and Pattison) regarding democratic accountability is problematic to the industry.

Jessica Wolfendale builds on the theme of the democratic control of force, and warns that something morally valuable in this system would be lost, if the relationship between the military and the community were to be compromised by the use of PMSCs. She warns that:

If we treat private military companies as morally equivalent to national military forces, we fail to recognise the emotional, political and symbolic importance of the literal and symbolic relationship between national military forces and the community (Wolfendale 2008, p. 231).

Her concern is that the 'democratic' aspect of this relationship would be compromised because PMSCs would enable greater control by governments of public opinion regarding wars, or at least, diminish societies' exposure to war. By no longer using military forces who are both members and representatives of the community, the public would lose the "direct access to the experiences and costs of going to war – experiences that not only affect the emotional support for a war but that are also relevant to rational debate about the justness of a war." (Wolfendale 2008, p. 231) Wolfendale believes that the use of PMSCs can undermine the questioning process on the justification of a war that is so vital to the democratic control of force.

It should be noted that Wolfendale is not making the claim that the PMI does not have a role to play, but rather that it should not replace national military forces. Elke Krahmann goes further in arguing that private military contractors constitute a ‘new model soldier’. (Krahmann 2008, p. 260) Krahmann even offers a reverse of the typical civil-military relations complaint against the PMI, but pointing out that, in addition to undermining the democratic control of force framework, Private Military Contractors can themselves be the victims. Krahmann describes how “society and political leaders are less concerned about the loss of human lives among foreign and private military contractors than among national citizen-soldiers ...” (Krahmann 2008, p. 260)

Krahmann goes on to advocate the necessity of improving political and legal oversight of the PMI as a fundamental aspect “(e)nsuring political control and accountability over the publicly sanctioned use of armed force (as) a fundamental aspect of civil-military relations”. (Krahmann 2008, p. 261) The question of the implementation of accountability and oversight therefore attains paramount importance in establishing legitimacy for the industry.

The concerns raised in this section follow two major themes. First, there is a concern that PMI implementation violates the definitional security of the state by undermining the monopoly over the democratic control of force. In a similar sense, the second major theme revolves around the instrumental damage done to the civil-military relations framework by the implementation of the PMI, in terms of damage to the democratic process and in terms of the risks associated more generally with outsourcing and privatisation. The definitional threat to the state is dismissible by taking into account the changed variables in the global environment, which arguably necessitate an updated interpretation of the state’s monopoly over the control of force. Overhauling the systems of accountability and oversight can mitigate the instrumental concern about the effect of the PMI on aspects of the democratic control of force. This requires an examination of attempts at regulation of the industry.

Regulation, Oversight and Accountability

Privatisation offers many benefits, particularly efficiency. The problem with privatisation is that it opens the door to the risks associated with its driving force,

competition. Competition in an uncertain market environment, especially in terms of uncertain legislation and governance is a worrying prospect. Arguably, the sphere of activity undertaken by PMSCs in the security industry makes this even more worrying.⁵² A major ‘practical’ concern about mercenaries that has been commonly supported in the media using abundant empirical data, is the concern about the conduct of mercenaries (and PMSCs). Numerous examples exist of mercenary brutality, ranging from ancient times to the defining passage in the resurgence of mercenaries, the post-colonial African notoriety of the ‘*Dogs of War*’ (as I have briefly explored in the previous chapter). Lately of course, the PMI has also received negative publicity over events globally and especially in Iraq.⁵³ This is where the topic of regulation enters the ethical debate. In order to achieve any sort of legitimacy, at least in the sense of justifying the existence of mercenarism along consequentialist lines – some form of regulation is required.

As Mervyn Frost comments:

Privatisation is a public act, by a public authority, for the achievement of a public good. It involves the creation of an anarchical institution for the achievement of public goods. (Frost 2008, p. 54)

Further to that, he adds:

[t]he public in a democracy might seek to prevent ethically noxious outcomes coming about as a result of the process of privatisation, without at the same time destroying the anarchical structure within which privatised companies must, by definition, operate. The key to preventing such outcomes is regulation by public bodies. (Frost 2008, p. 54)

A good introduction to regulating the PMI can be found in Jurgen Brauer’s essay ‘*PMSCs: markets, ethics and economics*’ (Brauer 2008) which first defends the notion of supporting the PMI using economic theory (not purely by justifying it through

⁵² As alluded to, throughout Singer, 2003b.

⁵³ The Blackwater examples of the previous example tend to dominate the popular conception of mercenary ‘cowboys’ creating havoc in Iraq.

efficiency but utilising economic principals to guide an evaluation of the industry). He then emphasises the need for regulation by bypassing what he views as a distracting debate over public and private control of force:

With Lynch and Walsh (2000), I am not so much arguing in favour of PMSCs as to challenge a certain type of anti-PMSC cogitation that divulges more fear than reasoning. For an economist the key is not *how* force is organised (private or public provision) but how force is *organised* (regulated). (Brauer 2008, p. 110)

Brauer goes on to say:

The history of organising human warfare shows cyclical movement: sometimes more private, sometimes more public, always a mixture, rarely the exclusive provenance of one or the other. What changes are the conditions under which this or that organising principle is better suited to the purpose of war-making, or peacekeeping. (Brauer 2008, p. 111)

The types of regulation called upon by Frost and Brauer hinges on external regulation through accountability and oversight. This, unfortunately, requires precisely the kind of legislative framework currently lacking in the international system. In the study of security governance, there is a distinction made between top-down and bottom-up privatisation – the former describing, for example, US incorporation of the PMI into its foreign policy while the latter describes non-state actors employing private contractors. However, in the face of some of the instrumental concerns posed by Wolfendale, Krahnemann and Pattison regarding the protection of the framework of democratic control of force, it appears that supranational accountability and oversight is necessary.

Because the UN (or any other multilateral organisation for that matter) is currently unable to effectively provide the required oversight and regulation of the PMI, other forms of regulation must be considered. Doug Brooks has been offering the IPOA (International Peace Operations Association) as a trade organisation and oversight enforcer for the industry for several years now. Some have expressed doubts about the

effectiveness of an organisation like this – Peter Singer being one of them – and with good cause, given the events surrounding Blackwater Worldwide’s ‘hiatus’ from the organisation last year in the face of mounting criticism over controversies arising out of Iraq, notably the Nisoor incident. Whether this was a result of pressure from the IPOA or simply a move to allow Blackwater to create its own industry watchdog (the Blackwater Peace and Stability Operations Institute),⁵⁴ is a matter of some debate. The IPOA is a voluntary, self-governing organisation – and as such, does not carry a particularly heavy regulatory stick. Nevertheless, any contemporary industry needs the kind of industry-focussed oversight perspective that an organisation like the IPOA offers. Doug Brooks and the IPOA feature prominently in the final two chapters of this dissertation.

In addition to supranational external regulation and industry-run oversight, there is of course state-specific regulation to consider. The international legal approach to the PMI is insufficient at best. It hinges on an outdated understanding of mercenarism and the modern PMI, and is ill equipped to respond to the privatisation trend. At the same time, different states have responded in different way to the rise of the corporate warrior. On opposite ends of the polarised response, one finds South Africa and its controversial ‘Merc Bill’⁵⁵ and of the other, the United States and its approach to the matter. Marina Caparini explores precisely this approach in *Regulating private military and security companies*. (Caparini 2008, pp. 171-188) The reasons for this difference cover much of the same ground covered in the legal brief of the PMI issue in chapter one. Once again, history and political variables play a prominent role. The United States has a long history of contractor involvement, from the War of Independence, through the Civil War, and into Vietnam (Duiker 1995), the Gulf War and of course, the Global War on Terror. Moreover, the U.S. is at the very forefront of the globalised outsourcing trend, and, as such, it makes sense that they would most prominently be making use of, and indeed driving the development of, the PMI. In *The Sorrows of Empire* (2004), Chalmers Johnson berates this association with the PMI as facilitating an overall collapse into militarism and imperialism by the U.S. Conversely, Thomas Barnett, in *The Pentagon’s New Map* (2004) celebrates the US’s

⁵⁴ <http://gpsoi.org/> Accessed 18 November 2008.

⁵⁵ The Prohibition of Mercenary Activity and Prohibition and Regulation of Certain Activities in an Area of Armed Conflict Bill, 2005.

role in ‘closing the gap’ between ‘functioning core’ and the ‘non-integrated gap.’⁵⁶ In an article for *Scripps Howard News Service* in September 2008, Barnett acknowledged and praised the ‘global stability industry’ for the role it plays in globalisation.⁵⁷

In comparison to the US’s response to the industry, the South African government has recently enacted a tightening of the legislation prohibiting mercenary activity. Raenette Taljaard pays particular attention to this in *Implementing South Africa’s Regulation of Foreign Military Assistance Act* (Taljaard 2006) South Africa’s legacy of Apartheid plays a major role in the government’s response to the PMI. For instance, Executive Outcome’s links to the Apartheid regime through its incorporation of CCB, ‘Koevoet’ and 32 Battalion personnel placed it at odds with the post-1994 government. Similarly, South Africa’s prominent role in SADC and the AU has insured a close affiliation with the *1977 OAU Convention on the Elimination of Mercenarism in Africa* (which closely mimics the UN Mercenary convention). Historical reasons aside, Taljaard points to several important issues arising out of the Regulation of Foreign Military Assistance Act (which has since been surpassed by the *Prohibition of Mercenary Activities and Prohibition and Regulation of Certain Activities in an Area of Armed Conflict Act*). Notably, she raises a concern similar to Avant (Avant 2005, p. 184), that the South African response to the PMI merely serves to drive the industry underground, which not only damages any attempts at regulation and oversight, but also poses grave risks in the potential market environment of the African continent. Another concern that carries over to the latest set of legislation enacted in South Africa, is over the logical difficulty faced by any national legislative effort in the face of the transnational nature of the industry. This points once again to the need for the development of an international regulatory framework.

Given the troubles faced by local and international regulatory legislation, and by industry-based regulation, there is another option available for the provision of at least some mitigation of the prudential concerns over the effects of privatisation over the

⁵⁶ Barnett describes the ‘core’ as the collection of integrated, connected, socially and economically globalised states while ‘gap’ states are the non-integrated ozone hole of globalisation. Barnett’s central thesis is that the gap constitutes the source of the vast bulk of instability in the world today. Moreover, he feels that the US is obligated and justified in leading efforts to close this gap.

⁵⁷ Barnett, T. *Stability ops will follow all military interventions in future*. Scripps Howard News Service. Submitted by SHNS on Fri, 09/12/2008.

democratic control of force. Christopher Kinsey introduces the idea of corporate social responsibility specifically in terms of “voluntary acts that move beyond legal compliance and include investing more in human capital, the environment and stakeholders.” (Kinsey 2008, pp. 70-86)

Corporate Social Responsibility (CSR) may seem at first glance, an idealistic and potentially pointless effort given the context of its proposed employment, but Kinsey’s suggestion does make a certain amount of sense. A major failing in the control of the PMI is the lack of legislative cohesion in both perception of and application to the industry. CSR offers the kind of internally regulated aspirational control that serves to support and at times prop up weak legislation in any other contemporary industry. So why not the privatised military and security industry? Taking that point further, a major strand of argument concerning the PMI is that it is a different entity to the traditional mercenary because of its corporate structure. If that is the case, and this argument is not merely re-branding designed to confuse the observer with a corporate shell placed over traditional mercenarism, then it is in the industry’s best interest to continue actively pursuing greater CSR implementation. Kinsey sets out the extent of PMI CSR to include “safeguarding the interests of stakeholders, ensuring transparency, promoting self-regulation and encouraging accountability and oversight.” (Kinsey 2008, p. 83) While Kinsey makes an argument that the industry itself sets the tone for this kind of social awareness, he also points out that the market itself dictates the emphasis on CSR.

This notion of market regulation is what makes the notion of Corporate Social Responsibility so effective. CSR can be described as simply the existence of a ‘conscience’ by a company, an acknowledgement of an obligation to protect society from the negative impact of its business practice. Moreover, CSR serves to provide accountability and oversight within the company over issues such as the protection of the rights of stakeholders, including its employees. The 2004 death of four Blackwater contractors in Fallujah is largely attributed to the fact that their convoy was insufficiently armed and armoured. This concern has led to a legal case being mounted by the families of the deceased against Blackwater. The argument is that Blackwater was cutting costs – a familiar topic in business ethics, with its inherent tension between profit motive and social conscience. At this point CSR offers its self-

regulatory function. The modern market has developed certain expectations of service which in turn dictate who succeeds and who does not. It is therefore in a PMSC's best interest to conform to the CSR expectations of the market in order to succeed financially. Kinsey argues that, in Iraq at least, this is already predominantly the case – that competition over enlightened customers has driven PMSCs to embrace socially responsible behaviour. (Kinsey 2008, p. 83) That is not to say that CSR is automatically applicable to the PMI. There are specific difficulties in implementing it, notably in terms of transparency, given the particular operational environment faced by the PMI. (Kinsey 2008, pp. 78-79) In addition, there are certain difficulties inherent to the protection of the rights of stakeholders. The Fallujah incident in 2004 is an example of Blackwater allegedly failing to provide adequate firepower and armour for its employees. At the same time, standard close-protection detail protocols tend to call for aggressive driving, and handling of weapons to the point of seriously violating the rights of other stakeholders, namely the citizens of Iraq. Balancing and prioritising the rights and needs of stakeholders is one of the trickier aspects of CSR. However, it should be noted that this kind of reasoning is by no means exclusive to the PMI – the same kind of balancing problem is faced any time a U.S. Officer calls in an air strike in an urban area of Iraq.

Conclusion

This chapter was designed to provide an evaluative overview of some of the ethical debate surrounding the topic of the PMI. The key issues are of the intrinsic morality of mercenarism; the consequential aspect of control of force and its effects on civil-military relations; and the question of whether there is a morally significant difference between traditional mercenarism and the contemporary PMI. This chapter has shown that the question of intrinsic morality is dominated by outdated and falsely premised arguments relating to sufficient justification, and of a Machiavellian evaluation of the practise of mercenarism. It has shown how a stream of argument in the modern examination of the topic has shown mercenarism to be no more intrinsically immoral than national service soldiering. It has also shown the possibility of justified mercenarism, a concept that is valuable to the proposed privatisation of peacekeeping.

The topic of control of force is also especially relevant to the privatised peacekeeping question. The monopoly over the control of force is a complicated and historically

important concept which is especially relevant to the debate on privatisation, given the modern globalised political environment. This chapter has shown how the privatisation of force raises concerns for the democratic control of that force, and how this area of concern serves a major hindrance to the legitimacy of the PMI. This in turn creates problems for the regulation of the industry, given that international law is unwilling and unable to clearly and unambiguously define mercenarism in the modern context, which creates subjectivity in its treatment at the national level. As a possible means of overcoming this deficit of accountability, I examined the concept of Corporate Social Responsibility, and its potential application in the PMI. This provides a potentially useful tool for the coming chapters.

Chapters One and Two, taken together, provide an overview of the PMI issue. This overview enables further examination of the most popular subject stemming from the PMI debate – peacekeeping. It is now the task of this dissertation to examine the idea of privatisation of peacekeeping and peace support functions. Ultimately, this dissertation seeks to evaluate a particular type of argument raised in support of privatised peacekeeping, but it is first necessary to establish an understanding of the framework of the peacekeeping debate, and the conceptual roots of the argument in question. The following chapter begins this process.

Chapter Three

Peacekeeping and Africa

Introduction

Peacekeeping is a complicated concept which rests somewhat precariously on a set of ideals set forth by the United Nations in a very different global environment. (Tardy 2007, p. 20) Not only has the nature of the global community changed, but so too have the types of conflicts that exist. (Shearer 1998, p. 75) This chapter explores the concept of peacekeeping, making mention of its historical roots to emphasise the changed realities that this concept now faces. In exploring the concept of humanitarian intervention, I pay close attention to the debate around the use of coercive force as part of a 'responsibility to protect' because this area of discussion ultimately forms the sharp end of the debate around privatised peacekeeping. To support this, I also call upon material to sketch out the framework for privatisation of peace support, arguments that are already propounded by what is being referred to as the Peace and Stability Operations Industry. (Wright and Brooke 2006)

A second part of this chapter is concerned with placing the question of privatised peacekeeping in the context of application in Africa. To this end, I briefly explore the issue of security governance in Africa and detail some of the UN's history of activity on the continent. This chapter is designed to provide the beginnings of the expediency argument that this dissertation ultimately sets out to critique. Evaluating the utility of privatisation of peace support operations requires an understanding of what can be gained, and of what is at stake. Chapter One has shown who is involved, and why a clear legal understanding of the Private Military (and Security) Industry is so challenging. Chapter Two has shown the ethical terrain involved, beginning with the deontological concerns about the intrinsic nature of mercenarism, and then the instrumental questions about the consequences of privatisation of force for notions of civil-military relations. It has also revealed an intense debate around differentiating between mercenaries and PMSCs. In this chapter, I continue to ask questions about privatisation of force, specifically in the context of privatised coercive force for humanitarian intervention purposes. This chapter provides the necessary information on the question of privatisation of peacekeeping, coupled with the groundwork

provided by Chapters One and Two, to enable informed debate on the topic in the final chapter of this dissertation.

Introduction to Peacekeeping

The term 'peacekeeping' is not found in the United Nations Charter and defies simple definition. Dag Hammarskjöld, the second UN Secretary-General, referred to it as belonging to "Chapter Six and a Half" of the Charter, placing it between traditional methods of resolving disputes peacefully, such as negotiation and mediation under Chapter VI, and more forceful action as authorized under Chapter VII.⁵⁸

Peacekeeping is conceptually related to the idea of humanitarian intervention. This is a fundamental part of the United Nations Charter, which was originally designed as a means of preventing war. Its original designers picked up where the League of Nations left off, in attempting to establish a system of global governance that could prevent conflicts like the world had just experienced in the first and second world wars. Chapter VI and VII of the Charter, which are mentioned in the above quote, provide the framework for peacekeeping by empowering the UN Security Council with the right to intervene.

The notion of intervention is not without its complications – it has a long standing conflict with the Westphalian notion of sovereignty.⁵⁹ Moreover, unilateral intervention has a long history of susceptibility to abuse by its very nature. (Shearer 1998, p. 75) As a result, humanitarian intervention requires measures to assure its legitimacy. A normative framework for peacekeeping exists in the Charter of the UN, which justifies humanitarian intervention as a means of protecting Human Rights and governing International Humanitarian Law. Furthermore, multilateral (or

⁵⁸ Taken from the introduction on the UN Department of Peacekeeping Operations Website. UN Department of Peacekeeping Operations Website:
<http://www.un.org/Depts/dpko/dpko/>

⁵⁹ Of interest here is a speech given in Munster in 1998 by the Secretary General of NATO, Dr Javier Solana. In it the treaty of Westphalia is simultaneously celebrated for bringing peace after the 30 Years War and acknowledged as insufficient to maintain peace on its own. He goes on to celebrate the UN as a means of achieving lasting peace while warning that humanitarian intervention must be tempered with respect for the Westphalian notion of sovereignty.
<http://www.nato.int/docu/speech/1998/s981112a.htm> Accessed 19-11-08.

supranational) oversight is provided by the system of Security Council Mandates. Unfortunately, this system also provided the fundamental weakness of the UN – its susceptibility to the political perspectives of its constituent members. The Cold War rendered the UN largely impotent. The modern globalisation and transnational trend has delivered added burdens. Victor-Yves Ghebali argues that globalisation affects intergovernmental organisations, which are based on multilateralism, by restraining nation-states' capacities to perform as fully sovereign entities. (Ghebali 2006, p. 227) Additionally, there is reluctance on the part of Western contributory members to become involved in expensive and politically risky interventions. This resulted in a shortage of skilled UN personnel and a trend towards limited enforcement of Chapter VII type interventions to enforce peace on reluctant belligerents. (Shearer 1998, p. 70) These factors have contributed to a series of highly publicised failures by the UN. The result has been a growing scepticism about the UN's overall capacity to deliver. (Ghebali 2006, p. 213)

Robust Peacekeeping

More recently, the UN has undergone several changes in its approach to ensuring international peace and security by shifting its focus from state-centred socio-economic development to a more robust form of intervention. In conjunction with this, the UN has concluded that “international peace and security (are) now endangered mainly by intra-state conflicts.” (Ghebali 2006, p. 213) Additionally, non-state actors are considered a risk to security and good governance, and that weakened governance constitutes both a regional and global risk. (Ghebali 2006, p. 213) Importantly, there is recognition that modern conflicts tend to affect and indeed involve the specific targeting of civilian populations. These realisations have instilled a need for the expansion of collective security beyond the protection of the state, and the inclusion of human security concerns. The 2001 ICISS's report on *The Responsibility to Protect* (ICISS 2001) has created a framework for intervention while respecting the conception of sovereignty in the contemporary global arena that has been embraced by the UN. (Pattison 2008, pp. 2-3)

This new approach to peacekeeping has included the UN's expansion of the concept of peacekeeping to include a spectrum of peace and security activities. The 2000 *Report of the Panel on the UN Peace Operations*, more commonly known as the

Brahimi Report (Brahimi, 2000⁶⁰) placed particular emphasis on peacebuilding. The 2008 *United Nations Peacekeeping Operations Principles and Guidelines* (UN DPKO 2008) details the evolution of UN Peacekeeping and provides in depth guidance for contemporary UN Peacekeeping operations. Chapter Eight of this document in particular documents *Supporting and Sustaining UN Peacekeeping Operations* with subsections about logistics and administration; human resource management; and security of personnel. Importantly, the UN has embraced the globalisation trend of outsourcing and privatisation in this regard.

Privatised Peacebuilding

There has been a “growing trend over the past ten to 15 years of for-profit firms playing an increasingly important role as partners supporting peace, stability and reconstruction operations in conflict, post-conflict and post-disaster environments around the world.” (Wright and Brooke 2008, p. 105) Wright and Brooke describe these for-profit companies as an indispensable and cost-effective contributor to the restoration of peace and stability, particularly in Africa. (Wright and Brooke 2008, p. 105) It should be noted that Derek Wright and Jennifer Brooke are both employed by the IPOA, which obviously situates them firmly on the pro-PMI side of things. They describe the emergence of a *Peace and Stability Operations Industry* (PSOI).⁶¹ The PSOI offers services in three main areas: logistics and support, Security Sector Reform and Development (SSRD) and private security. (Wright and Brooke 2008, p. 106) It’s not a coincidence that this fits so well with Peter W. Singer’s widely used PMI typology. The IPOA has supported the assertion that the structure of the PMI contributes largely to its distinction from traditional mercenarism.

The first PSOI category for peace support entails logistics. Logistical support has been a historical bridge point between private firms and national militaries. One such example is the American Logistics Civil Augmentation Program (LOGCAP). (Wright and Brooke 2008, p. 106) Logistical support for multilateral peacekeeping is not new either, AFRICAP is a framework that has augmented AU peacekeeping missions for some time now – an example of which is the use of AYR Group to provide aviation

⁶⁰ http://www.un.org/peace/reports/peace_operations/docs/summary.htm Accessed 18-11-08

⁶¹ Doug Brooks and Matan Chorev describe the Peace and Stability Industry (PSI) which is effectively the same thing. I will focus on the Wright and Brooke PSOI for simplicity’s sake.

support to the AU in Darfur. (Wright and Brooke 2008, pp. 106-107) In addition to logistical support, there is the category of SSRD which includes companies that “provide expertise in training and development programmes aimed at assisting conflict-ridden countries rebuild their governmental, security, economic, civil society and legal sectors.” (Wright and Brooke 2008, p. 107) This rather broad area of development seems to compliment Singers’ PMI category of training, at least in so far as security sector reform is concerned (one could easily picture a company like MPRI involved in retraining troops in a post-conflict zone with regards to Humanitarian Law and the like, as well as becoming involved in Disarmament, Demobilisation and Reintegration (DDR) programmes). In terms of the PSOI, firms like PADCO-AECOM, which is a leader in SSRD in Uganda (Wright and Brooke 2008, p. 108) and are particularly involved in a national reconciliation programme. As with Singer’s categories, these first two categories are not immediately controversial. However, this changes with the third category of the PSOI, private security. As the 2002 British House of Commons *Green Paper* (House of Commons, 2002) puts it: “more problematic is the notion that private military forces might be used for politically sensitive and high-profile areas of UN operations, such as peacekeeping and peace enforcement.” (Ghebali 2006, p. 214)

Security has been described as “being 90 per cent of the problem but only 10 per cent of the solution for peace and stability” (Wright and Brooke 2008, p. 108) but is acknowledged as a critical, if not primary step in the peacekeeping process. Eeben Barlow argued at an Institute of Security Studies discussion on *Privatisation of peace-keeping in Africa* back in 1997 that “there can be no peace-keeping without peace.” (Barlow 2007, p 471) The United Nations acknowledges the importance of security, particularly in the post-Brahimi era of robust peacekeeping operations. However, privatised security is also commonly a grey area that tends to be abused by the PMI. In *Shadow Company*, a documentary film about the Private Military Industry, Doug Brooks comments that the PMI security function consists of guarding of ‘nouns’ – people, places and things. This carries over to the security aspect of the PSOI, and carries with it the problem of the utilisation of force. In its most tame form, security provision might entail the use of defensive force. However, many of the current controversies coming out of Iraq regarding violent behaviour by PMSCs have ostensibly come about through either Personal Security Detachments or other ‘guard’

duties. Furthermore, the contemporary concept of ‘robust peacekeeping’ calls for coercive force as a means of peacemaking and peace enforcement, blurring the distinction between defensive and coercive force. This would then fall into the security category. It is this aspect of privatised security that particularly interests this dissertation.

The African Privatised Peacekeeping Market

Taking a step back from questions about privatisation of force, it is important to explain in greater detail, the persistent focus on Africa in this dissertation. It should be noted that the PMI debate is currently geographically focussed on Iraq, although it was for a time interested in the Balkans region – particularly for example, Kellogg Brown and Root’s connection to LOGCAP contracts (Singer 2003, p. 138) and MPRI’s training activities in Bosnia (Singer 2003, pp. 126-131). Increasingly, the post-modern PMI has been focussing on Africa as its next potential market, and this then is where the debate must go. Geographical location does have a part to play in this debate, particularly in the context of Africa’s general security and governance characteristics, and its history with both the UN and mercenarism.

According to Christopher Clapham, Africa has been by far the most important regional setting for UN peacekeeping operations. (Clapham. 1999) He notes that UN Operations in the Congo (ONUC, 1960-64) dwarfed all other activities in this field during the Cold War. Since 1948 the UN has overseen sixty-five Peacekeeping operations, of which 16 are still being run across the globe. Of those sixty-five, twenty-five have been conducted in Africa. More tellingly, of the sixteen being run currently, seven are in Africa, and the remaining nine are scattered around Europe (Balkans region), the Middle East, Asia and the Americas.⁶² Africa is therefore clearly a major part of the international focus on peacekeeping, and with good reason.

Post-colonial Africa is a regional stability nightmare.⁶³ Western Europe had one thousand seven hundred years following the collapse of the Roman Empire to develop

⁶² Statistics taken from the UN list of Peacekeeping operations on the DPKO Website. <http://www.un.org/Depts/dpko/list/list.pdf> Accessed 18-Nov-08.

⁶³ This, and information about the development of the current security situation in Africa is taken from a briefing given by Helmoed Heitman to an Industrial College of Armed Forces (ICAF) study group series of seminars examining the Privatised Operations Industry in Simonstown, South Africa in 2007.

into its current structure. In that time, it experienced wars of conquest, religious wars and wars of national determination. World War Two could be described as a terrible sort of maturation, as it paved the way for relative peace and stability, and even unity. For the most part, the continent of Africa has been free from colonial power for just under fifty years. In that time, the major challenge facing African states has been that of national self-determination.⁶⁴ The primary concern here is the establishment of a post-colonial national identity. The problem quite simply is that the haphazard nature of the colonisation process has created a series of states based on geographical features or political agreements rather than the usual evolutionary route followed by a state in its development. The African continent was effectively carved up by European powers, and then in the late 1950s and 1960s these states suddenly found themselves in a position of establishing some measure of national identity and political stability.

These states were hampered by several factors, including a lack of infrastructure, following the withdrawal of Western control. This withdrawal also created an inevitable power vacuum. Coupled with this vacuum was another relic of the colonial legacy – a confused political landscape in which different and historically separate groups of people were now lumped together in an unstable ‘nation’. This has led to religious conflict in the Sudan and Somalia/Ethiopia/Eritrea regions where Christianity and Islam are in conflict with each other. Artificial nationhood has also led to ethnic conflicts, which have also had the tendency to spread beyond political borders, in line with the traditional regions of ethnic heritage. Continual upheaval in the Congo region for instance, is largely attributable to this kind of spillover effect and is a major challenge in an environment where containing conflict and improving regional stability is so very vital for the economic and political future of the continent.

The UN’s history in Africa is complicated however. The nature of the Security Council contributed to the weakness of the UN during the Cold War. In Africa this was felt in proxy conflicts such as Angola in the 1970s. In the Post-Cold War era

⁶⁴ A theme covered in Ballesteros, E. B. (Special Rapporteur). (2003) *The Right of Peoples to Self-Determination and its Application to Peoples Under Colonial or Alien Domination or Foreign Occupation. Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination*. Economic and Social Council – Commission on Human Rights: 60th session, Item 5.

there are also inherent problems in the relationship between Security Council members and Africa that continue to affect peacekeeping operations today. Both the UK and France had substantial colonial interests in the continent, and consequently, few if any major UN operations have occurred in former UK or French colonies. (Clapham, 1999, p. 2) United States involvement in Africa has been limited, but in Somalia for instance, poor coordination between US forces and UN forces undermined the UN mission in that region. (Clapham 1999, p. 2) Additionally, while the Security Council members are responsible for approving mandates of peacekeeping operations, they are very rarely major contributors to the operations themselves. As David Shearer notes, there is a reluctance to become involved in direct interventions – mostly because of the associated political risks. (Shearer 1998, p. 75)

US involvement in Somalia ended after the political backlash following the ‘Blackhawk Down’ incident, and characterised much of American foreign policy until the advent of the Global War on Terror (GWOT). Nevertheless, Doug Brooks and Matan Chorev argue that, despite the dramatic expansion in number and scope of UN peacekeeping operations since 1990, “UN peacekeeping capacity has not matched the increasingly exacting demands of member nations, and in fact has actually diminished, as Western nations have grown increasingly reluctant to participate.” (Brooks and Chorev, 2008, pp. 117) Brooks and Chorev further argue that principal contributors to UN missions have been from developing countries, rather than ‘NATO-class militaries’. This ‘Westernless peacekeeping’ has been a major cause of inefficiency in UN operations, and a big part contributor to the attractiveness of outsourcing. Clapham further notes that interaction between the UN and regional organisations and powers in Africa has been troublesome. (Clapham, 1999, pp. 2)

The UN Charter allows for coordination with regional authorities to supplement or enable intervention (specifically Article 53). In Europe this would mean coordination with the European Union (EU) or NATO. In Africa, this traditionally has meant coordinating with the AU (formerly the OAU)⁶⁵ and economic communities such as the Southern African Development Community (SADC) and Economic Community

⁶⁵ “*African Union replaces dictators' club*”, BBC, 8 July 2002
<http://news.bbc.co.uk/2/hi/africa/2115736.stm>
Accessed 19-11-08.

Of West African States (ECOWAS). A contemporary example of this is the combination of UN and AU peacekeeping operations in Darfur.⁶⁶ Unfortunately, this tends to result in poorly trained (Brooks and Chorev 2008, p. 177), ill disciplined (Hough 2007, p. 12), badly led and under equipped troops (Brooks and Chorev 2008, p. 120) getting involved in underfunded and politically pressured missions (Clapham 1999, p. 3) that in some case have caused more harm than good.⁶⁷

In addition there are implementation problems in Africa that create further difficulties for peacekeeping efforts. At the *Joint Operations Africa* conference held in Cape Town in 2006 Helmoed Heitman delivered an address entitled *A Regional Perspective on Joint Operations* which explained that joint operations are a vital requirement in the African environment, mostly because of the sheer scale involved. He pointed out that Africa is ten times the size of Western Europe, but has significantly less infrastructure in place, especially with regards to roads, railways, airfields and ports. This lack of logistical infrastructure puts strain on any kind of peacekeeping operation – and especially on one being conducted primarily by ill-equipped and poorly trained personnel. While Heitman argued that this put the more developed powers in Africa in a position of responsibility to provide the defence capabilities that are lacking (specifically South Africa), it is not necessarily the case that this is enough.

In 1998, a SANDF/BDF (South African National Defence Force/ Botswana Defence Force) joint force was charged by the SADC with re-establishing stability in Lesotho when the country collapsed into so-called anarchy following an allegedly corrupt parliamentary election in 1998. Operation Boleas is considered, at best, a stabilising operation (which, despite the support of the SADC, created much concern in the AU and UN). It is considered to be largely a failure in that it caused more damage than it was sent to prevent.⁶⁸ It also showed that even the SANDF (which at the time was still

⁶⁶ “Security Council Authorizes Deployment Of United Nations-African Union ‘Hybrid’ Peace Operation In Bid To Resolve Darfur Conflict” UN Security Council 5727th Meeting. 31st July 2007. <http://www.un.org/News/Press/docs//2007/sc9089.doc.htm>. Accessed 19-11-08

⁶⁷ See Pattison, 2008, pp24 for a comprehensive lists of UN, AU and ECOWAS faults along these lines. See also "African Union Force Low on Money, Supplies and Morale", *The Washington Post*, May 13, 2007 <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/12/AR2007051201567>. [break] [html?hpid=moreheadlines](http://www.washingtonpost.com/wp-dyn/content/article/2007/05/12/AR2007051201567) for more information on similar problems with AU forces. Accessed 07-10-08

⁶⁸ Military Intervention in Lesotho: Perspectives on Operation Boleas and Beyond, *OJPCR: The Online Journal of Peace and Conflict Resolution* May 1999.

considered by many as the best equipped, best trained, most capable fighting force on the continent) was horribly unprepared for the needs of a peacekeeping operation.⁶⁹

There is another challenge facing combined peacekeeping efforts – the problem of joint operation coordination that arises out of very different military structures and capabilities being put under a single command. This is an historical problem associated with joint-force operations, and was a major concern for NATO for instance, during the Cold War. Standardised logistics are one element of the problem (relating to spare parts, fuel standards, transport standards and ammunition). In the less developed infrastructure of Africa, this logistical concern is heightened. For instance, the standard weapon of choice for many African states is the ubiquitous AK47/AKM, firing a 7.62x39mm round. Some states however, have numbers of newer AK74s which fires a smaller and more manageable 5.54x39mm round. Other states make use of a number of FN FAL rifles, which fire the 7.62x51mm NATO standard round. South Africa, on the other hand, uses the R4 and R5 range of weapons which fire the 5.56x45mm NATO round.⁷⁰ This means that any given joint operation could conceivably require four different types of standard rifle ammunition and would accordingly require the logistical complexity to supply these different types of ammunition. This only increases the cost and difficulty of a joint operation. This complexity also extends to radio communication protocols and even language differences. (Hough 2007, p. 18) ECOWAS must contend with English and French speaking elements as well as Portuguese and Arabic. There are also fundamental differences in command structures and protocols as well as political perspectives, largely a result of the Cold War. These factors all combine to place a great deal of strain on peacekeeping initiatives in Africa.

It is important in a chapter detailing the UN history in Africa to cover one case in particular, an especially infamous combination of UN operations: UNOMUR (UN Observer Mission to Uganda and Rwanda) and UNAMIR (UN Assistance Mission for Rwanda). These operations ran during the 1994 Rwandan Genocide and are

http://www.trinstitute.org/ojpcr/p2_2neethling.htm Accessed 19-11-08.

⁶⁹ For a particularly scathing review of this operation, see Barlow (2007, p.486) wherein he berates the collapse of the SANDF's force projection capabilities.

⁷⁰ Ballistics information from Popenaker, M. (1999 – 2001) "Modern Firearms – Ammunition – Rifles and machine gun ballistics". <http://world.guns.ru/ammo/am03-e.htm>, Accessed 03-11-08.

considered to be among the greatest UN failures in Africa.⁷¹ Following the Arusha Accords in 1993, Rwanda looked set to overcome the civil war that had been running in the region for years. Effectively, the conflict was between the Tutsi rebels of the Rwandan Patriotic Front and the Hutu dominated Government. UNAMIR was mandated with an observational role and a duty to protect the provisions of the Arusha Accord.⁷² Unfortunately violence broke out again (including the shooting down of a plane containing the Rwandan President (Barlow 2007, p. 440)) and a general state of chaos ensued.

The UN peacekeepers on the ground were unsure of their legal rights and the rules of engagements in light of the complete breakdown of the Accord, which they were mandated to observe. At one point, a group of Belgian peacekeepers under attack were ordered by their commanding officer to surrender because they were unsure of their right to fight back. They were eventually executed. (Barlow 2007, p. 440) The killing continued, building up into what is now known as the Rwandan genocide, and which achieved holocaust proportions in one hundred days of terror. As a result of the deaths of those ten UN troops, Belgium withdrew their contribution to the peacekeeping force (which was a sizeable percentage), leaving a vastly outnumbered force which could do little but watch the slaughter.⁷³ Lt. General Roméo Dallaire, commander of the UN Mission, pleaded with the UN Security Council and Kofi Annan (who was at the time in charge of the UN Department of Peacekeeping Operations) for a new mandate and, more importantly, reinforcements. What is considered by many to be a display of bureaucratic foot dragging meant that any real improvement in the UN's capabilities came well after the genocide had run its course.⁷⁴

The Rwandan Genocide is cited as a prime motivating example for the establishment of a rapid reaction force, and was also a source of major reforms in the UN's

⁷¹ See Alison Des Forges (1999). *Leave None to Tell the Story: Genocide in Rwanda* for an in depth study of this event.

⁷² Des Forges, Alison (1999). *Leave None to Tell the Story: Genocide in Rwanda*. Human Rights Watch

<http://www.hrw.org/reports/1999/rwanda/>

⁷³ Rwanda: How the genocide happened, BBC, April 1, 2004,

<http://news.bbc.co.uk/2/hi/africa/1288230.stm>

⁷⁴ *Ibid.*

approach to peacekeeping in general, culminating in the Brahimi report. It also provides motivation for an African Standby Force which functions through the AU⁷⁵ in a similar manner to the NATO standby force. The genocide was also commonly mentioned by elements of the PMI as an area where PMI involvement could have made the difference. (Lilly 2000, p. 57) Eeben Barlow describes how EO was contacted by the UN and in fact went as far as to draw up plans for an EO-run intervention. (Barlow 2007, p. 441)

Indeed, Eeben Barlow, and Tim Spicer of Aegis (formerly of Sandline International) have been making claims about their ability to provide humanitarian intervention for over a decade. In 2002, the International Consortium of Investigative Journalists published the article *Marketing the New 'Dogs of War'* (ICIJ 2002) which focussed specifically on the activities of Tim Spicer. The ICIJ article quotes Spicer as saying that the world was waiting for “the speed and flexibility with which they [PMSCs] can deploy, rather than wait for the U.N. to form a force.” (ICIJ 2002, p. 2) Spicer went on to suggest that PMSCs could be employed with the Northern Alliance in Afghanistan, and in Iraq to assist those resisting Saddam Hussein. He went on to propose that PMSCs be employed in the international community’s interest, in missions such as ending the long-running conflicts in the Sudan, and even to topple Robert Mugabe in Zimbabwe. (ICIJ 2002, p. 2)

The idea of a privatised rapid deployment force has also caught the eye of Erik Prince, the founder of Blackwater Worldwide. Blackwater unveiled a subsidiary company called ‘Greystone’ in 2005. (Scahill 2007, pp. 368-369) It is described as “an international security services company that offers your country or organisation a complete solution to your most pressing security needs. We have the personnel, logistics support, equipment, and expertise to solve your most critical security problems.” (Scahill 2007, p. 367) Blackwater’s plans to enter the humanitarian intervention market were further revealed by statements by Blackwater Vice Chairman Cofer Black at an international Special Forces conference in Jordan in 2006. Here he announced that his company could deploy a small rapid-response force

⁷⁵ Jakkie Cilliers, 'The African Standby Force. An Update on Progress, Institute for Security Studies, South Africa, March 2008
http://www.issafrica.org/dynamic/administration/file_manager/file_links/PAPER160.PDF?link_id=3&slink_id=5753&link_type=12&slink_type=13&tmpl_id=3

to conflicts like the one in Sudan. He concluded his statement with: “We're low cost and fast, the question is, who's going to let us play on their team?”⁷⁶

Conclusion

This chapter has explored the notion of peacekeeping as a means of humanitarian intervention, and has outlined the UN's changing perspective on peacekeeping to incorporate notions of peacebuilding and 'robust peacekeeping' in order to play a more effective role in the post-Cold War globalised environment. It is evident the UN is faced with many challenges, particularly with regard to the effective implementation of coercive force as a means of intervention. Various failures in this regard, most hauntingly in Rwanda in 1994, have created a call for alternatives. While contemporary peacekeeping comprises largely of peacebuilding components like DDR, SSR and Logistical Support, the security aspect is still considered vital and perhaps the most troubling. The nature of peacekeeping operations in Africa is a source of many of the difficulties in this regard. The UN's political and historical relationship with the continent, the political and strategic nature of the continent itself, and the problem of poor contributions by Western powers and weak contributions by developing and associated states contribute to an ineffective track record of peacekeeping operations in Africa. Privatisation and outsourcing is an overwhelming characteristic of contemporary globalisation, and has even been implemented as part of UN peacekeeping operations as part of what is sometimes referred to as the Peace and Stability Operations Industry (PSOI or the PSI). However, this has not extended as far as peace enforcement, although the possibility has been raised, and there are many who support the idea. This then is the task left for this dissertation: to examine the argument raised for privatised intervention in the form of a PMSC based rapid deployment intervention force.

⁷⁶ http://www.boston.com/news/globe/ideas/articles/2006/04/23/peace_corp/?page=full
Accessed 22-11-08.

Chapter Four

Evaluating Expediency Arguments

Introduction

The previous chapter has provided some idea of the challenges facing peacekeeping initiatives, particularly in Africa. It has shown that a major weakness in peacekeeping relates to insufficient manpower, specifically with respect to the capabilities required for multidimensional peacekeeping. This weakness stems from reluctance on the part of Western NATO-level powers to commit troops or resources to peacekeeping efforts. Consequently, developing nation troops tend to fill the ranks of peacekeeping missions either as part of the United Nations, or seconded through the African Union or other multilateral bodies such as SADC or ECOWAS. Missions tend to be further hampered by politically compromised, and financially and bureaucratically hamstrung mandates. As Ghebali puts it:

Notoriously, UN peacekeeping operations are, more often than not, conducted by ill-trained, poorly-armed and badly-coordinated volunteers representing different cultures, operating with heterogeneous equipment and minimal funding and, to make things worse, lacking strong motivation. (Ghebali 2006, p. 224)

This has resulted in several high profile failures and an unimpressive record, which has in turn created a generally pessimistic view of UN peacekeeping. Measures are being taken toward improvement of peacekeeping, including reforms in the UN approach toward peacekeeping and peace support. This has also increased the outsourcing of peace support functions such as logistical support and development roles. These two categories form part of what is sometimes referred to as the Peace and Stability Operations Industry (PSOI) (Wright and Brooke, 2006) or alternatively, the Peace and Stability Industry (Brook and Chorev, 2008).⁷⁷ As with the general outsourcing trend, the privatisation of peacekeeping functions offers the possibility of

⁷⁷Both describe the same industry, and both sets of authors represent the IPOA. As with the myriad of PMC/PSC type acronyms, there is a certain fluidity in which the 'peace support' acronym is used.

increased efficiency and cost effectiveness, something that certainly appeals to organisations like the UN (and even more so, the AU).

This dissertation is however, focused on the more controversial security aspect of the PSOI – particularly where the security offered tends towards coercive force. So called ‘robust peacekeeping’ entails a blurring of the lines between peace enforcement and peacekeeping, and is considered one of the major facets of any rapid deployment intervention force. Many argue that the private sector is ideal for assisting here, and moreover, that concerns about private sector involvement in this regard, is outweighed by its potential effectiveness. The culmination of the groundwork provided in the previous three chapters enables me to examine that claim here.

Privatisation’s Promise

Peacekeeping has undergone conceptual changes to better cope with the challenges of an evolving global landscape. Despite these changes, UN peacekeeping has a poor success record. Reasons for this poor record were discussed in the previous chapter – most notably, a lack of contribution by Western members of the UN. “Into the gap have stepped today’s private military companies.” (Shearer 1998, p. 71) This pragmatic ‘gap filling’ is complimented by arguments at the conceptual level that privatisation also offers the benefits that come from competition. As Herbert Wulf explains in the context of outsourcing military functions:

According to the dominant economic theory, the market is better qualified to handle these functions and carry them out more efficiently than the armed forces themselves. (Wulf, 2008, p. 194)

The International Peace Operations Association (IPOA) is a highly visible promoter of the Private Military Industry. They are, for instance, contributors to efforts in differentiating the Private Military Companies (PMCs) or Private Security Companies (PSCs) from traditional mercenarism. This is not only to counteract negative perceptions of the industry within the U.S. context, but also in terms of the wider debate on the treatment of PMSCs by International Law. The IPOA, as described by its name, is especially interested in promoting the potential for PMI expansion into a ‘peacekeeping market’. The Peace and Stability Industry is an example of this. Doug

Brooks is president of this “non-governmental, non-profit, non-partisan association of service companies dedicated to improving international peacekeeping effort through greater privatisation.” (Alexandra *et al* 2008, p. x) He describes the PMI as an effective means of ‘closing the gap’ between contemporary demand for peacekeeping activities, and what the international community is actually capable (or willing) of supplying.

Brooks and Chorev make special mention of the advantages of private sector involvement in peacekeeping. They describe the dramatic difference between deployment times for the regular military, UN forces and the private sector – four months, six to eight months and two to three weeks respectively. (Brooks and Chorev, 2008, pp. 120) Another advantage raised by Brooks and Chorev relates to the comparatively small size of private operations which they interpret as minimizing the “footprint and negative externalities of large-scale intrusive interventions.” (Brooks and Chorev, 2008, p. 121) Further to this, they describe how the private sector practise of utilising locals to a greater degree than regular militaries or the UN has the advantage of “reinforcing indigenous authority as well as boosting the local economy and laying the foundation for the long-term sustainability of reconstruction efforts.” (Brooks and Chorev, 2008, p. 121)

As part of the continuing debate on the use of private actors in force projection roles, Brooks and Chorev take this opportunity to dispel some of what they consider to be ‘myths’ relating to the abilities of contractors. They note that continued operations in Iraq have revealed the high level of risk tolerance, and the capacity to successfully accomplish their functions in a highly volatile environment (Brooks and Chorev, 2008, p. 123). They also cite Iraq as evidence of the superiority of privatisation for tasks such as logistics: “compared to past conflicts, logistics in Iraq is ‘too easy’, leaving some officers to voice concerns that troops are in fact too well supplied and too comfortable.” (Brooks and Chorev, 2008, p. 123)

The IPOA support for privatisation is therefore two-fold. First, it argues that privatisation is necessitated as a means of closing the gap between the requirements of contemporary peacekeeping, and the actual capacity to fulfil those requirements. Second, in support of this, it argues that the private sector is equipped to surpass the

capabilities of current peacekeeping initiatives, and, at least in the area of logistics, surpass even Western military capabilities.

Arguments based on capabilities tend to rely on empirical data from a specific set of case studies. Iraq has provided much supporting evidence for all manner of arguments relating to privatisation. Sierra Leone is a favoured case cited in support of the capabilities of privatised intervention in the sense of more overt coercive force that is part of the robust peacekeeping model.⁷⁸

Hough examines four military interventions into Sierra Leone between 1995 and 2000. These four interventions include the Executive Outcomes intervention between 1995 and 1996, the ECOMOG⁷⁹ intervention between 1997 and 2000, UNAMSIL (United Nations Mission in Sierra Leone)⁸⁰ between 1999 and 2005, and United Kingdom involvement in 2000. Hough finds that the PMSC intervention by EO and the national force intervention by the UK were more effective than the regional and international forces' efforts. In assessing the independent variables of these missions, Hough spends some time describing the clarity of the EO and UK mandates, compared to those under which UNAMSIL and ECOMOG operated. Both EO and the UK intervention were fulfilling clearly defined peace enforcement roles, while ECOMOG and UNAMSIL seem to have been caught up in the ambiguity of 'robust peacekeeping.' ECOMOG's mandate was unilaterally changed to peace enforcement in reaction to changes that occurred in Sierra Leone after EO had left, which created considerable tension and confusion for the peacekeepers and the people of Sierra Leone. This was only resolved after Sandline International (a PMC with an intertwined history with Executive Outcomes (Barlow 2007, pp. 389, 453-458, 465)) was brought in to play a force multiplier role (Hough 2007, pp. 14-15) in order to restore some order. In the case of UNAMSIL the unclear mandate resulted in an intervention force that was not logistically configured to provide any Chapter VII peace enforcement. (Hough 2007, p. 15)

⁷⁸ An especially useful examination of Sierra Leone is provided by Leslie Hough (Hough 2007).

⁷⁹ ECOMOG is the Economic Community of West African States Monitoring Group. It is regional peacekeeping force formed by ECOWAS. For more information, see Ero, C (2000)

⁸⁰ UNAMSIL: UN Mission in Sierra Leone.

<http://www.un.org/Depts/dpko/missions/unamsil/index.html>

More specifically to the question of privatisation advantages, Hough notes that both EO and the UK contingent consisted of small elite forces, compared to the large, diverse, and poorly trained troops of the multilateral efforts. In addition, the smaller groups enjoyed superior logistical support and technology. Regardless, these small intervention forces were far better equipped than the larger multilateral forces, and also equipped appropriately for the type of mission at hand. Hough goes on to describe how these smaller groups were able to acquire better intelligence than their larger counterparts, and interact more effectively with the local populace. (Hough 2007, pp. 17-18) As a final point, Hough argues that the incentive structures involved were an important factor. An EO contractor is aware that failure risks his livelihood and jeopardises his source of income. (Hough 2007, p. 19) By contrast, soldiers involved in multilateral operations are driven primarily by the respective 'professionalism' of their own national military. Therefore, a highly professional military organisation, as with the UK Special Forces, would psychologically impel a soldier to do his best as part of a collective ethic in which discipline and chain of command override the natural tendencies of an individual rational actor. In a military organisation characterised by a lack of professionalism, the soldier remains an individual profit-maximizer with no incentive to put himself at risk on behalf of collective security. (Hough 2007, p. 19)

The points raised by Hough therefore seem to support the claims by Brooks and Chorev (and the IPOA), and claims by past and present members of the PMI, about the capabilities of the industry to provide coercive peacekeeping force. In terms of the Peace and Stability Industry, privatisation has already been accepted for logistical and development functions. The question of security, specifically in terms of private use of coercive force is however, still a matter of debate. There is a large body of argument presented by industry representatives that propose the benefits of privatisation. These arguments are supported by case-based evidence, chiefly Executive Outcomes' intervention in Sierra Leone. The rise of the notion of a rapid deployment force, coupled with an increasing trend toward privatisation has led to a debate that is dominated by a specific type of argument. I attempt to capture this argument in a formal structure, below.

The Expediency Argument

In general, ‘expediency arguments’ appeal to notions of speed and efficiency. The common usage refers to political expediency, which implies a motivation to bypass bureaucratic impediments. More generally, expediency arguments can be described as arguments that exhibit a particular fitness, both content and in the effectiveness of the argument itself. There is however, a pessimism attached to this notion. Expediency, according to the *Oxford Dictionary*, denotes an argument for something that is necessary but not always right or fair. Expediency arguments are linked (for instance) to the Suffragette movement. One pro-suffrage argument made was that granting women the vote would serve as a means of offsetting the foreign vote.⁸¹ This exhibition of political expediency appealed to the thinking at the time, and as a result, it is argued that provinces in the Canadian West were among the first to grant women the vote primarily because they had the highest immigrant ratios.⁸²

I apply the label of ‘expediency argument’ to the bulk of the arguments in favour of privatisation of peacekeeping. I am aware of the negative connotations of this label, and intend them to apply here too. It is not, however, the idea of privatised peacekeeping itself that I am opposed to. Rather, in the tradition of Lynch and Walsh’s ‘anti-anti-mercenaryism’, I am sceptical of the *type* of argument commonly used to support privatised peacekeeping. It is this *type* of argument that I label an ‘expediency argument’.

The prototypical expediency argument justifies the privatisation of peacekeeping operations as a means of overcoming the weaknesses of the current system. This is usually underlined with empirical evidence of failures of the UN system, most notably in Rwanda. The expediency argument advocates the use of private actors as a cost effective and efficient means of peacekeeping and peace enforcement that will benefit those who would not otherwise be reachable by such initiatives. To underline this

⁸¹ http://books.google.com/books?id=GBlgg-xobCQC&pg=PA263&lpg=PA263&dq=suffrage+foreign+vote&source=web&ots=HS0mq7kRYv&sig=R2oS-oUV1BN6z-V3Z4hevmWR1Qg&hl=en&sa=X&oi=book_result&resnum=10&ct=result

⁸² http://books.google.com/books?id=GBlgg-xobCQC&pg=PA263&lpg=PA263&dq=suffrage+foreign+vote&source=web&ots=HS0mq7kRYv&sig=R2oS-oUV1BN6z-V3Z4hevmWR1Qg&hl=en&sa=X&oi=book_result&resnum=10&ct=result

point, Executive Outcomes' actions in Sierra Leone are usually called upon. The IPOA approach to lobbying in favour of the PMI follows this general pattern.

PMI efficiency and cost provides the impetus for the argument for privatised peacekeeping, but there is benefit in changing the international community's perception of the PMI. Officially sanctioned privatised peacekeeping could also provide legitimacy for the PMI. This aspect might serve as a means of encouraging membership of the IPOA by Private Military and Security Firms, but is rarely voiced in the mainstream argument for privatised peacekeeping. The allure of the expediency argument lies in a combination of its packaging as a concise solution to a problem, and the utilitarian type of justification that is evoked in its humanitarian marketing. This is not an immoral or unjustified type of argument per se, but does have limits that are commonly overstepped.

The Consequentialist Trump

James Pattison (Pattison 2008) offers a succinct take on the privatised peacekeeping debate, and promotes an argument that hinges on a 'consequentialist trump'. His argument begins with an introduction to the notion of utilising private contractors for humanitarian intervention. Here he lists four primary objections to the idea: That the proposal is unfeasible; that the humanitarian intervention is inappropriately motivated; that privatisation reduces the degree of democratic control over the intervention; and that there is insufficient legal accountability over the PMI.

Although Pattison dismisses the first objection as largely mistaken (Pattison 2008, pp. 11-13), he acknowledges that the three remaining normative claims (which I have covered in Chapters One and Two) are convincing. He further acknowledges the temptation to respond to these concerns by redirecting them at the UN, but warns against such a move: "If other agents have similar problems, it does not follow that using PMSCs becomes morally justifiable. Rather, the proper conclusion should be that we regard *both* PMSCs and other agents' intervention as morally unjustifiable." (Pattison 2007, p. 25)

'Inappropriate motive' can be easily dealt with in the same way that Lynch and Walsh and Baker dealt with this topic, as we saw in Chapter Two. Likewise, questions of

democratic control and legal accountability can be turned back on, for instance, ECOMOG forces. (Hough 2007, pp. 12-13) Pattison argues however that this approach serves merely to undermine the notion of intervention itself, rather than enhancing the argument for privatised intervention.

Pattison instead employs a consequentialist argument that evaluates the *overall* moral justifiability of the privatisation proposal. (Pattison 2008, p. 25) This ‘consequentialist trump’ does not challenge the *validity* of the three remaining objections raised against the proposal, but instead challenges the *weight* that they carry. He advocates an ‘ends justifying the means’ type of evaluation, predictably supported by the case of Executives Outcomes in Sierra Leone. (Pattison 2008, p. 26) He does stipulate that two conditions must be met in order for the PMSCs effectiveness to be sufficient justification. First, the humanitarian crisis must be ‘extremely serious’. Secondly there must be a high probability of the PMSC being successful in its role. With these two conditions fulfilled, Pattison concludes that “in the messy circumstances of humanitarian intervention, holding out for the ideal – for an intervener that is fully legitimate – is likely to involve a long wait,” and that “the issue of using these companies to undertake humanitarian intervention will arise more and more as their use generally increases. And when the question does arise, we should not necessarily say no.” (Pattison 2008, p. 32)

Consequences of Consequentialism

There are several contentious points in Pattison’s argument. His dismissal of the first objection relating to the feasibility of privatised peacekeeping seems to rely on reiterating the typical list of ‘promises of privatisation’ as well as giving examples of the privatisation of peacekeeping logistics and development not to mention the obligatory example of Sierra Leone. He also feels that the existence of a trade organisation lends feasibility to the notion of privatised peacekeeping. More worryingly, he asserts that humanitarian intervention and peacekeeping missions can be distinguished from outright war-fighting because they tend not to involve heavy fighting. This is something Executive Outcomes veterans might disagree with, and is certainly the kind of assumption that has plagued peacekeeping missions like UNAMSIL, caught between peacebuilding and peace enforcement. In addition, any

arguments one might raise are presumably subject to the same ‘consequentialist trump’ treatment.

The primary problem with Pattison’s argument is with the consequentialist trump itself. This kind of thinking can be described as reckless given the gravity of its employment. One question that arises out of any assertion that ‘the ends justify the means’ is of how far this kind of justification will carry. In other words, where does it stop? Recall Tim Spicer’s offer to provide intervention even to the point of toppling leaders. The justification of ‘regime change’ for humanitarian has been experimented with recently by the United States, but is surely not an envisaged function of the UN. To push the point a little further, Pattison argues that “PMSCs could therefore be a useful compromise, allowing states that wish to tackle a humanitarian crisis a politically and militarily viable way of doing so.” (Pattison 2007, p. 13) Taken with the end-means argument in mind, this kind of undermining of civil-military relations (as Jessica Wolfendale warns) at least opens the door for more serious breaches such as coups and assassinations.

According to the consequentialist trump, if the UN is unable to perform humanitarian interventions then a less ideal, less legitimate unilateral intervention might be justifiable, assuming the situation is very serious and there is a good chance that the unilateral intervention could succeed. These provisions are unfortunately subjective in their presentation, which would tend to exacerbate the systemic faults in the UN system. They require impossible degrees of foresight to judge the potential effectiveness of PMSC employment (in order to justify the other concerns raised against privatisation). This would likely paralyse the entire system. There is instead the concern that the PMI can enable unilateral interventions. The problem is that this undermines multilateral peacekeeping, and is susceptible to many of the civil-military relations concerns relating to the PMI. Notably, unilateral action is inherently biased, and the control of force in this case requires a system of accountability. Privatisation undermines the instrumental value of the civil-military relationship and greatens the risk of abuse associated with unilateral interventions. This concern is voiced by US Congressional Representative Jan Schakowky, who, describes Blackwater Worldwide’s interest in involvement in Darfur as ominous:

[S]uddenly you've got a for-profit corporation going around the world that is more powerful than states; can effect regime change, possibly, where they may want to go; that seems to have all the support that it needs from this Administration. (Scahill 2007, p. 356)

Schakowsky's concern goes on to argue that the Administration is able to bypass Congress in this manner. This type of unilateral employment could even be extended to individuals, "philanthropists like Bill Gates or George Soros," as Scahill points out. (Scahill 2007, p. 354) There are obvious concerns with the idea of, for example, rich Hollywood 'philanthropists' funding PMSC-run interventions.

The problems with the consequentialist trump highlight a particular theme common to expediency arguments for privatisation of peacekeeping. There is a danger of falling into a pattern of consequentialist thinking that borders on emotional blackmail. This kind of counter may in fact be precisely the kind of 'ruthless humanitarianism' that Brooks and Chorev are accusing the UN in particular of. In a sense, this is indeed precisely what is at stake here – the protection of a greater concern than the plight of those who could, *maybe*, be helped by a sudden embracing of the privatised peacekeeping described by the IPOA or Pattison. This then is the dilemma that faces the UN in attempting to pursue its global role. This now becomes a complicated question in terms of what rights are in fact granted to the UN with regards to playing the role of a global government, and flirts with Utopian notions (Wulf 2008 p. 201) that are beyond the scope of this dissertation. It is important to raise the final point that the thinking behind expediency arguments in favour of privatised peacekeeping could just as easily be labelled 'ruthless humanitarianism'. If one chooses to evaluate by that kind of utilitarian thinking, then there must be a recognition of the allure of immediacy, which might make the consequentialist trump appear more reasonable than it really is. In this case, it might be that by heeding the consequentialist trump, a far greater crisis is created that causes more harms or suffering than would have otherwise occurred.

Non-profit Peacekeeping

There is an alternative to the consequentialist trump – one that doesn't override concerns about the industry, but, rather, attempts to diffuse them. I examine this

alternative in order to show how some responses to the debate on privatised peacekeeping can be both naively based and misdirected. Tobias Masterton is the Director and Co-Founder of Global Peace and Security Partnership (GPSP), an organisation that offers “a rapid response, not-for-profit peacekeeping and defence force” designed specifically for the “prevention or containments of Low Intensity Conflicts.” (Masterton 2004) The GPSP offers a way for the private industry to facilitate peace support operations and act as a rapid deployable delaying force while the international community goes through the comparatively slow process of multilateral coordination for intervention. Christopher Spearin notes that this approach faces considerable challenges, despite its potential benefits. (Spearin 2005, p. 241)

The defining characteristic of the GPSP is that it is a non-profit organisation. Masterton contends that it still exhibits the advantages of rapid deployment, cost-effectiveness and technical efficiency that are usually attributed to private sector interventions but because it is a non-profit organisation, Masterton believes that it attains legitimacy or, at least, distance from the traditional ‘mercenary’ label. (Spearin 2005, pp. 242-243) There are problems with this however. While Masterton asserts that regulation and accountability are assured by the GPSP, there is no particular reason to believe that a non-profit organisation has any particular qualities beyond a for-profit organisation in this regard. Weak or strong international legislation applies equally to for-profit and non-profit organisations. What the non-profit nature of the GPSP does however do is rob this proposal of the market forces that provide improved efficiency to the private sector in the first place. This also results in the loss of the framework for a system of self-imposed Corporate Social Responsibility.

As pointed out in Chapter Two, a large part of the PMI debate revolves around showing that CSR is a vital part of the corporate take on traditional mercenarism, and is an essential aspect of any business initiative in the contemporary globalised economy.⁸³ It provides vital support for both international and domestic legislation. Without profit-motive to drive the need for greater market efficiency, there is little motivation to enforce or aspire to Corporate Socially Responsible behaviour. In

⁸³ I made use of (Kinsey, 2008) for this.

addition, Spearin raises concerns about the attractiveness of a non-profit in terms of manpower (Spearin 2005, pp. 247-248). Masterton describes the GPSP as offering pay rates “commensurate with international civil service scales in similar fashion to the UN.” (Masterton 2004, p. 3) Given that measures have had to be put in place to hinder the ‘brawn drain’ that has resulted from national force personnel migration to the better paying private contractor world (Spearin 2005, p. 248), it is unlikely that a non-profit organisation will be able to attract the high quality personnel that are integral to its proposed function, with payment incentives that are merely equivalent to the international community standard.

The Advanced Expediency Argument

Masterton’s non-profit organisation and Pattison’s ‘consequentialist trump’ are just two approaches to promoting privatisation of peacekeeping functions. I included the GPSP in this evaluation, to show how attempts at bypassing anti-privatisation concerns can fail, and to show how interrelated these concerns are. This is just a branch of the expediency argument type. The prototypical argument tends more towards Pattison’s attempt, which I have criticised for promoting a reckless type of consequentialism. These two refutations do not constitute a failure of the expediency argument type however. The primary reasoning behind expediency arguments for privatisation of peacekeeping is still credible. It is possible to overcome those problems facing privatised force without resorting to questioning the *weight* that they carry, but rather by addressing the concerns themselves – particularly by way of an informed evaluation of the overall privatisation debate.

The three major concerns that Pattison lists effectively capture the major anti-privatisation arguments and will be employed again here: a deontological argument against the intrinsic morality of the industry; arguments around the control of force, and its effects on civil-military relations at the conceptual and instrumental levels, and the question of legal regulation and accountability. I will consider each of these in turn.

The first objection relates to the intrinsic morality of the industry. This concern forms the basis for much of the UN (and certain domestic) approaches to the PMI. As shown in Chapter Two however, the common Machiavellian argument is not necessarily

effective, nor is the argument around sufficient justification. As Lynch and Walsh, Coady and Baker (among others) have made great progress in showing, there is nothing in the intrinsic nature of mercenaries, either regarding their moral character or in the justification behind mercenarism itself, which condemns the PMI. This conclusion can be coupled with input by the likes of Wulf and Milliard in favour of a meaningful difference between the PMI and traditional mercenarism in order to form a compelling two-pronged defence of the industry against the typical moral arguments brought against it. It is important to take into account the historical background provided in Chapter One. Mercenarism had a long and ancient history that did not carry any of the stigma attached to the notion today. A selective historical profile of the industry is dominated by the Machiavellian perception, and the memory of ‘Les Affreux’.⁸⁴ This perception not only dominates the public image of mercenarism, but has also characterised the legislative treatment of the topic. This entrenched conceptualisation has carried over to the PMI. While many of the pejorative concerns about mercenarism are indeed well-deserved, this negativism should not dictate the definition of mercenarism. All that this achieves is to foster an outdated and ambiguous legal definition, which in turn, hinders regulatory measures.

The second major question focuses on the effects of privatisation on notions of control of force. It can be captured in the question posed by Frost: “Are there some functions which ought not be privatised?” (Frost 2008, p. 48) Conceptual concerns relating to the damaging effects of privatisation on a Weberian system (either state-based or supranational) appear to be unfounded. Herbert Wulf (2006) describes the incompatibility of the traditional account of the monopoly of force, with the modern ‘lean state’ trend, which entails emptying the state of many of its functions. Additionally, the Westphalian ideal of sharply drawn, distinctly demarcated states contrasts to the reality of globalisation. (Wulf 2006, p. 97) At the supranational level the same is true, Ghebali argues that Article 42 of the UN Charter “attributes to the Security Council the monopoly of the legitimate use of force for the maintenance of international peace and security.” (Ghebali 2006, p. 226) He then follows this with the acknowledgement that Article 51 expressly allows for the exercise of the right to self-

⁸⁴ Roughly, ‘the terrible ones’ – a name given to some of the post-colonial mercenaries.

defence by an individual state or collective in the event of an armed attack.⁸⁵ Chapter VIII of the Charter goes on to describe regional arrangements such as Article 53,⁸⁶ which allows for the use of AU/ECOMOG type regional forces. Taken together, the UN Charter seems more to have been *interpreted* as promoting a Weberian paradigm. Indeed, Herbert Wulf argues that, “At the global level the monopoly of force is completely lacking. A generally accepted, globally practiced monopoly of force does not exist and the weakness and impotence of the UN Security Council in the case of the 2003 Iraq invasion is demoralising evidence of this fact.” (Wulf 2006, p. 93)⁸⁷ Given that much of its content was laid down long before the notion of privatised peacekeeping; or the modern requirements for robust peacekeeping in the face of contemporary intra-state conflict; or globalisations collectivised security – it appears that concerns about the control of force are, at the conceptual level, unfounded.

The question of the effects of privatised force on the instrumental value of democratic control carries over from the civil-military relations concerns raised by Jessica Wolfendale. This concern is often raised in relation to the unilateral employment of privatised force for intervention purposes. For example, P.W. Singer argues that the Abrams Doctrine,⁸⁸ which has characterised U.S. civil-military relations since Vietnam, has effectively been outsourced. (Singer 2007, p. 111) Consider that the Abrams Doctrine was intended precisely to avoid involvement (and entrapment) in unpopular wars following Vietnam. Consider also that the privatisation trend has enjoyed a significant boost leading up to, and throughout the Iraq conflict. The correlation that could be made here will serve as ready ammunition for anti-PMI arguments, but does this extend from the unilateral level to the supranational?

The multilateral nature of the UN Security Council ostensibly negates concerns about unilateral abuse, but as Wulf points out, this is often not the case. Internal politics will inevitably continue to play a role in the decisions made by the Security Council, but this is more to do with the structure of the UN itself, rather than the question of privatisation. At this point, a consequentialist trump is extremely tempting: since the

⁸⁵ <http://www.un.org/aboutun/charter/chapter7.htm> Accessed 21-11-08.

⁸⁶ <http://www.un.org/aboutun/charter/chapter8.htm> Accessed 21-11-08.

⁸⁷ For more on the topic of the legality of the U.S. invasion, see (Lobe, 2003).

⁸⁸ At the closing of the Vietnam war, then Chief of Staff of the US Army, General Creighton Abrams, proposed a system whereby U.S. troops would, in future, incorporate substantial Reserve Forces in any expedition undertaken. This was to ensure engagement with the civil-side of civil-military relations.

system already lends itself towards unilateral abuse, what more damage could be done by privatisation for humanitarian intervention? My concern with the reckless nature of such a move still stands, but the lack of an immediate solution does not mean that there is no way at all of resolving this issue. Herbert Wulf (2006) offers a process by which to restore the public monopoly of legitimate force. While it is essentially an anti-PMI argument, it can be cannibalised for the purpose of showing that measures are available for remedying the problem of unilateral interests affecting the supranational framework. Effectively, Wulf advocates a multilevel monopoly of force to account for the weakened nation-state and to assist states with especially poor governance. This multilevel system functions around a hierarchical structure that runs from the local and national levels to the regional and global levels. In this system, monopoly of force is to be exercised from the bottom-up in a *subsidiary* system. Norm setting would be based on *supremacy* and should take place from the top down. (Wulf 2006, p. 98-100) Wulf identifies inherent tension in the UN system that requires reform.⁸⁹ This reform, he feels, must focus on overcoming democratic and security deficits. He places particular emphasis on the regulation of the PMI as a necessary aspect of this reform. As in the general PMI debate, Jurgen Brauer's argument that "At issue is not *how* force is organised (public or private provision) but how *organised* the force is (regulated)" (Brauer, 2008, p. 112), is paramount to the question of legitimate privatised coercive force.

The third area of concern is both a contributing factor to, and largely resultant of, the previous two. The question of legal accountability and regulation dominates the PMI debate. Domestic legislation is only part of the issue here. The real concern is at the international level. As shown in Chapter One, this legislation primarily consists of thirty-year-old Geneva Conventions and similarly venerable UN Laws. The treatment of private military contractors as mercenaries under these laws, and the variance of PMI treatment at the domestic level (the US compared to South Africa for instance) has created a significant grey area. This ambiguity can be overcome through revision by the UN Working Group on Mercenaries. Likewise, domestic laws will develop and mature. The South African progression from weak treatment of the industry to a hard-

⁸⁹ Wulf describes the UN as "a hybrid system of an intergovernmental organisation not operating according to democratic rules and at the same time acting as the conscience of the international community and the highest authority on questions of war and peace." (Wulf 2006, p.102)

line but dangerously inflexible legislation appears to require further refinement. Likewise, the U.S. approach to the PMI has been driven by recent events in Iraq which have necessitated a rethink of this issue.

In addition, CSR can play a meaningful role in negating concerns about violations by contractors, if it is given the chance. Granted, there are examples of ‘cowboy’ behaviour despite the competitive market environment in Iraq, but this appears to be the exception, not the rule, and is certainly no worse than the behaviour of ECOMOG in Freetown. It should also be noted that these recent controversies have occurred from within an immature legal framework and, as Brooks argues, a set of circumstances that are “unique and should not be taken as a model of future operations due to ... unusual size, level of risk and policy value.” (Brooks 2008, p. 123) Shaista Shameem, former UN Special Rapporteur, has urged that PMSCs be identified as private sector actors “to which should be extended the corresponding principles and consultations, including the United Nations Global Compact,” (Gheballi 2006, p. 217) which comprises a formal body of responsibilities of transnational corporations. At the time of her appointment to the post of Special Rapporteur, Shameem observed that a practical definition of mercenarism could only be reached after a policy decision had been reached “on the fundamental question of whether States wish to continue to be solely responsible for the use of force.” (Gheballi 2006, p. 223) Considering the move towards globalisation, and the ‘erosion of the Weberian model’ already discussed in this dissertation, progress here is easily conceivable. The argument can therefore be made that this entire area of concern can be resolved by the individual improvement of its constituent parts. If these elements are allowed to function together – up-to-date International treatment of the PMI (with an unambiguous definition of a mercenary), mature domestic legislation, a market with sufficient accountability for effective regulation to take place, and CSR playing a role – then a UN-Privatised African Peacekeeping scenario becomes a more viable reality.

Overcoming these three interrelated areas of concern appears to have a ‘chicken and egg’ quality. Both the intrinsic morality of the industry, and questions about the effects of privatisation on control of force require legislative regulation in order to truly overcome the conceptual concerns that they are based upon. The issue of regulation and accountability in turn requires that lawmaking bodies such as the UN,

and domestic legislators overcome conceptual apprehensions about the industry. This relationship is not condemned to paralysis however. The continually evolving nature of the global environment has a corresponding effect on political, legal and social institutions. As such, progress is being made on all three areas of concern.

Ghebali makes special mention of the UN's shifting position toward mercenarism. He describes the progression from UN Special Rapporteur Enrique Bernales Ballesteros' "use of mercenaries as a means of violating human rights and impeding the exercise of the right to self-determination of peoples" (Ghebali 2006, p. 214) to his replacement, Shaista Shameem's call for a "paradigm shift" (Ghebali 2006, p. 217). In the context of peacekeeping, Shameem views PMSCs as a means to help compensate for UN deficiencies when the latter is confronted with widespread violations of human rights and genocide. Furthermore, she advocates that this option "need not be at the expense of the contributions to peacekeeping or peacebuilding missions by members States, but in addition to them provided there is properly registered vetting mechanism and guidelines for private companies put in place in advance." (Ghebali 2006, pp. 218-219) Subsequently the position of Special Rapporteur has been replaced with a Working Group, which continues to investigate the issue of privatisation.

The Motivation for Resisting Privatisation

Despite the objections I have raised to the types of argument used, the basic motivation that drives the privatised peacekeeping proposal is still valid. Privatisation's promise of a cost effective and efficient means to supplement and conceivably solve (some) problems of UN peacekeeping, by filling the gap of in peacekeeping capacity, is persuasive. The cost-effectiveness and efficiency touted by the likes of the IPOA should however be approached with at least some degree of suspicion, rather than take as granted as is often the case. Singer argues that well-supplied US troops in Iraq may have less to do with the natural efficiency of market-forces resulting from privatisation of logistic functions, than with a blind faith in privatisation that had led the US government to blindly sign cheques. (Singer 2007, pp. 4-5) Aside from the hefty financial costs of this approach, Singer argues that the US may now be inextricably tethered to the PMI – unable to effectively conduct its military campaigns with them in support, but unable to mount military campaigns at

all without them. (Singer 2007, p. 1) ‘Filling the gap’ by privatisation could conceivably make it impossible to ever close the gap *without* privatisation, unless careful measures are taken. This warning is largely reliant on observations from Iraq, and speculation. It does however point to a need for cognisance of the dangers of privatisation, in line with my argument against falling victim to the appeal of the immediacy of ‘consequentialist trump’ type arguments.

The common expediency argument often criticises the UN’s stance on privatisation as reflecting a cruel indifference to humanitarian concerns. This is a mistake. As Ghebali comments, “It would be wrong to assume that the choice for the UN is between outsourcing or indifference to protracted conflicts.” (Ghebali 2006 p. 226) Indeed, the UN remains a viable means of security provision, in potential.

There is also a tendency by pro-privatisation arguments to write off the current system entirely, despite continued reassurances that the PMI is not seen “as a palliative to all conflict”⁹⁰ nor is it meant to replace the system. Granted, the UN peacekeeping system is flawed, and it appears that it will always be playing a game of catch-up with global political trends. (Masterton 2004, p. 5) But, for the most part, privatisation arguments simply offer a means of bypassing these flaws, but at potentially high cost. Instead, Doug Brooks’ ‘Westernless peacekeeping’ should ideally be resolved by greater Western contribution. Poor quality contributions from developing nations should be resolved by developing the capacity of these nations to contribute. Surely this is the kind of progress that is wanted for the UN system? Hough’s comparison talks of particular issues with confused mandates resulting in poor performances by ECOMOG (Nigeria unilaterally changing the mandate), and UNAMSIL (peacekeepers not equipped for peace enforcement). This requires a revision of the mandate system – a process that is continually in motion at the Department of Peacekeeping Operations. This can be achieved with the assistance of privatisation, but cannot if privatisation is allowed to dominate.

Peter W. Singer argues that the use of private military contractors appears to have harmed rather than helped the U.S. mission in Iraq. He further argues that this use has

⁹⁰ Pattison quoting Shearer. (Pattison 2008, p.31)

created a dependency syndrome, that the U.S. has locked itself into a vicious cycle wherein “It can’t win with them, but can’t go to war without them.” (Singer 2007, p. iii) His argument questions the financial efficiency of privatisation as it is currently employed by the U.S., and further argues that privatisation has come to dominate the military mission in Iraq and pushed it in directions contrary to the original military strategy deemed necessary to win a counterinsurgency. (Singer 2007, pp. 4-9, 13-15)

Large scale privatisation might then actually harm the UN peacekeeping apparatus and hinder the continual development of the peacekeeping framework, and some (such as Singer) would argue that it should therefore be avoided in its entirety. I believe that this too is an overreaction, and that privatisation can indeed play a significant role in peacekeeping, if in no other way than to provide impetus for improvements in state’s capacities. There is also danger in completely discarding the industry. As observed by Stephen Kinloch, “Utopianism, when not reflected upon from a perspective in the real world, breeds dangerous ideologies and systems. Reality, when not impregnated by utopianism, is condemned to inaction and sterility.” (Spearin 2005, p. 250)

The Motivation for Privatisation

The following can be utilised as an alternative motivation to bolster an advanced expediency argument. There is a concern about the inevitable migration by the PMI to conflict ridden areas, such as Africa, whether it is legal or not. In much the same way that the Post-Cold War peace (and the post-Apartheid shrinking of the South African military) created a large pool of militarily trained potential contractors, a post-Iraq scenario will, arguably, result in an unbalanced supply and demand equation. US President-elect Barrack Obama has made it clear that he plans a rapid and total withdrawal from Iraq by 2011.⁹¹ The Iraqi-US Pact (unofficially referred to as the ‘Withdrawal Pact’ in the Arabic draft version released by Iraq) also stipulates a handover of mission control for all ground operations, as well as control of the Green Zone and Iraqi airspace as of January 1st 2009. At the time that this was written, a surprising addition in this pact had just been revealed: that the contractor immunity

⁹¹ <http://www.welt.de/english-news/article2733094/US-troops-to-leave-Iraq-by-end-of-2011.html> and <http://www.military.com/news/article/mullen-says-obamas-iraq-goal-possible.html?col=1186032310810> Accessed 21-11-08.

from Iraqi law that has been enjoyed since Paul Bremer passed ‘Order 17’ in 2003, will come to an end on Jan 1st 2009. Moreover, there is the possibility that retroactive legal action will be taken by the Iraqi government against contractors.⁹² This has obviously created many concerns not only amongst those who were involved in controversies but also for the PMI presence in Iraq in general. These changes could dramatically alter the conduct and nature of the PMI, and will certainly play a role in where and how the industry is employed in the future.

A perpetual theme of concern relating to privatised force is that of unilateral employment. This relates to Western powers using PMSCs as proxies to conduct foreign policy in regions that are politically inaccessible. Given the likely political policies of the United States in the post-Iraq period, and its current investment in AFRICOM (African Command), concerns raised by Jan Schakowsky about Blackwater Worldwide’s interests in (oil-rich) Darfur could be well founded. The concern about unilateral employment is especially worrying in the context of the general weak state-security of Africa. Consider that Executive Outcomes was employed by the Sierra Leone government, which had only recently changed hands by way of a coup, to fight the RUF rebels. During their tenure, the Sierra Leone government was again overthrown. In this kind of environment, it is easy to imagine elements of the PMI quickly regressing to the bottom-up, pre-modern form typical of the post-colonial days. (Wulf 2008, p. 192)

The UN Working Group on Mercenaries is unlikely to provide a grand, all encompassing solution to the privatisation debate. It will, in all likelihood, instead continue the trend of gradual change in the UN’s approach to privatisation – a trend in which the PSOI shows the way forward by offering a vital peacebuilding component and logistics for contributory members that lack these capabilities. This is not the beginning of a slippery slope argument. The privatisation of coercive force represents a point of singularity⁹³ in peacekeeping and should not simply be eased into. A major theme in my argument against reckless expedient actions in this arena, relates to the

⁹² <http://www.military.com/news/article/us-iraq-pact-ends-contractor-immunity.html?ESRC=eb.nl>
Accessed 21-11-08.

⁹³ Commonly used in the context of technological development to refer to a specific point, often a paradigm shift, which results in a massive acceleration in development. The privatisation of coercive force at the supranational level would constitute a major paradigm shift in political theory and specifically in the theory of intervention.

consequences of this step. These include necessitating a complete rethinking of entrenched notions of sovereignty and control of force, and additionally, of the UN framework itself. Changes of this sort carry a great deal of gravity. Moreover, privatised intervention alone is not sufficient. Executive Outcomes' contribution to Sierra Leone could only achieve so much on its own (Pattison 2008, p. 29), but as Shearer noted, "EO has always acknowledged its limitations" (Shearer 1998, p. 76). EO provided a focussed, aggressive intervention with the goal of destroying the RUF's capacity to threaten the security of the country. EO did not include peacebuilding in its mandate, nor could it realistically hope to achieve anything in that area, given the nature of the EO presence in the country. The UN did not engage with EO at the time that it pulled out, and the opportunity for an organised transition was lost. The slide back into chaos should not be brandished as proof that PMSC efforts fail at peacekeeping, but rather serve as evidence of inappropriate peacekeeping policy with regards to the integration of peace enforcement and peacebuilding, and coordination between the UN and private actors. These considerations point to a requirement for development both in the privatisation of peacekeeping operations and in the framework for peacekeeping operations in general.

Conclusion

The general argument for privatisation of peacekeeping operations is often packaged as a persuasive expediency argument. This argument points to the deficiencies in the current UN peacekeeping system, often empirically supported by citations of cases like the UN failure to prevent the Rwandan Genocide. UN failures in Africa appears to be a result of insufficient capacity to perform the duties required by contemporary peacekeeping. This is largely a result of insufficient support from Western powers, and poor quality contributions by developing nations and regional contributors.

The PMI offers a means of overcoming this 'gap in capacity'. Many, both from within the industry and outside of it, argue that the nature of privatised operations can provide solutions and improvements in terms of costs and overall effectiveness. Particularly fervent calls for privatised peacekeeping promote a sort of expediency argument that argue that continued UN hesitance on the matter is in effect creating human suffering that could be avoided. In its extreme form, this argument for

expediency advocates a sort of ‘consequentialist trump’, which morally overrides any other concerns that might exist about privatisation.

In this chapter I have examined some of the contributors to this expediency-type argument. and critiqued two particular approaches to this: the ‘consequentialist trump’ put forward by James Pattison; and the ‘non-profit’ approach suggested by Tobias Masterton. I’ve found both of these to be insufficient. In the case of the consequentialist trump, I have argued that it constitutes a dangerous type of thinking. The non-profit approach negates the benefits of self-imposed CSR, while focussing incorrectly on the need to resolve concerns about the intrinsic nature of mercenarism, instead of concentrating on the more troubling question of the consequences of private control of force.

I have instead offered an alternative, an ‘advanced expediency argument’, which features the same general thinking and motivation but does not simply override crucial issues relating to privatisation. These issues absolutely must be resolved before privatisation of coercive peace enforcement can become a reality. I have proposed ways in which these concerns can be resolved, and how privatisation can help peacekeeping initiatives in the interim, through support of peacebuilding. I have also submitted a prudential motivation for resolving the major issues holding back the privatisation of peacekeeping, while acknowledging criticisms of pro-privatisation claims pertaining to efficiency and cost effectiveness which further undermine the typical expediency forms of pro-privatisation argument.

In this chapter, I have not been arguing specifically for, or against privatisation, but rather, I have been critically evaluating a dangerous type of argument which in some cases appears to completely reject the UN system as a viable means of securing peace and stability. With this in mind, I have attempted to diffuse the element of immediacy in the expediency argument and instead offer a less reckless alternative to achieve the same goals, without condemning the UN. Doug Brooks himself, grudgingly concedes that the UN remains “against all odds the natural solution to international peace and security problems because it has got ‘some surprising capabilities and expertise to help with humanitarian services, peacemaking and state building’ and remains the

most qualified international organisation in the world capable of organising humanitarian relief on a massive scale” (quoted in Gheballi 2006, p. 226).

Conclusion

The purpose of this dissertation was to provide an evaluation of the proposal of privatised peacekeeping. In particular, this dissertation sought to evaluate a specific type of argument, an expediency argument, commonly raised in support of privatisation of peacekeeping. This expediency argument seeks to show the weaknesses of the current system of humanitarian intervention, in conjunction with the benefits and strengths offered by the Privatised Military Industry. This then serves as the basis for a ‘consequentialist trump’ to override any objections to the industry or its employment in peacekeeping. In order to evaluate this type of argument, it was necessary to focus on the individual components which comprise it.

It was the purpose of the first three chapters of this dissertation to explore why the world might not be ready for privatised peace. This began with a historical perspective, and brief exploration of the legal treatment of the industry. This revealed that an ambiguous legal definition of mercenaries is hindering any attempts to provide international regulation for the industry, which is treated subjectively at the domestic level. The next area to explore was the ethical debate on the topic. This revealed deontological and consequential approaches, as well as a debate around differentiating between historical mercenarism and the modern PMI. The deontological range of arguments focus on the intrinsic morality of the industry, with regards to sufficient justification for violence or the employment of force. The consequential range of arguments tends to focus on the issue of privatisation undermining the monopoly over the control of force. The question of differentiating between historical mercenarism and the modern PMI seems to hinge particularly on the latter. This overview provided a means of judging the validity of aspects of the expediency argument.

The final preparatory chapter established the changing nature of peacekeeping and some of the factors that inhibit its effectiveness. Supranational peacekeeping suffers most from a lack of capacity to fulfil the requirements of contemporary peacekeeping. This evaluation provided an understanding of the ‘capacity gap’ which expediency arguments offer the PMI as a means of filling. Moreover, arguments are presented

which show the privatised option is both cheaper and more efficient. This then contributes to the persuasiveness of the expediency argument.

Despite these positive factors, there is still reluctance to privatise peacekeeping. While social and historical factors play a role, the fundamental issue appears to relate to concerns about accountability and regulation. As shown in Chapter One, regulating the industry requires both domestic legislation and international measures, which are lacking as a result of the ambiguous definition of mercenaries. This is largely because of the concerns raised about the industry, explored in Chapter Two. This is the impasse that faces privatised peacekeeping. At this point, the expediency argument offers a ‘consequentialist trump’, which seeks to override these concerns according to consequentialist thinking. In Chapter Four, I argued that this type of thinking is reckless, and does not take into account the full gravity of the concerns about private control of force, especially for the multilateral use of coercive force for humanitarian purposes. I have argued that the consequences of this reckless consequentialism necessitate an alternative approach that systematically deals with those philosophical issues which require resolution before any progress can be made in defining the industry. In support of this, I have provided an alternative motivation that serves to drive the evolution of the peacekeeping system, and potentially integrate the private industry, without relying on a consequentialist trump to *outweigh* other concerns.

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