

HUMANITARIAN ACTION, NGOs AND THE PRIVATIZATION OF THE MILITARY

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“We strive to bring harmony and stability to regions under conflict, quickly and with the minimum of disruption to the local population. We are able to rapidly deploy, allowing stability to return, thus enabling deployment of aid. Agencies are then able to carry out emergency relief unhindered and without fear of physical harm. This underpins the essence of the company ethos and indeed the motto, ‘Ethics in Action’.”

From the mission statement of IESC, a private military company!

If one did not know the nature of the International Executive Service Corp (IESC), one might assume that it was a not-for-profit humanitarian organization or perhaps a multilateral organization dedicated to peacekeeping or peace-enforcement.² However, IESC is just one company in a growing sector of for-profit, private military corporations (PMCs). This sector has experienced extraordinary growth in the last 15 years, since the end of the Cold War. Certainly the world has often seen of increased mercenary activity at the end of conflicts among major powers, but this surge in military services offered for profit can be distinguished from earlier episodes by its corporate character and its relationship to significant change into systemic norms on the international level. Specifically, the erosion of Westphalian norms, the spread of neoliberal economic tendencies, especially privatization of services, and the globalization of production of goods and services are working to institutionalize PMC activity. Their presence in humanitarian, peacekeeping, and peace-enforcement operations is likely to be permanent.

The privatization of security complicates difficult questions that international humanitarian organizations (IHOs) already confront in providing security for their staff in zones of conflict. As their security and effectiveness often depends upon warring parties and populations regarding them as neutral in conflicts, IHOs have usually tried to keep an arm’s length from conflicts. Some analysts, including voices linked to the PMCs themselves, are arguing that PMCs could undertake these tasks, especially in

¹ From website of Westminster International Fire, Safety, and Security System’s subsidiary, IESC. See <http://www.wg-plc.com/international/security/privatemilitary.html>, accessed April 20, 2004.

² By “peacekeeping” I mean military operations whose function it is to provide order and security in a post-conflict situation where opposed parties have already agreed to suspend hostilities. By “peace-enforcement” I mean military operations, sanctioned by a multilateral regional organization or the UN, designed to separate combatants or prevent the occurrence of genocide.

situations where nation-states are unwilling or incapable of doing the job effectively. The largest PMCs are claiming also that they have the will and resources to undertake not only security but also peacekeeping and peace-enforcement more cheaply and effectively than states. As IHOs frequently operate in the context of such operations, they are likely to find that the difficult choices they face in relating to armed combatants arise in relationship to PMCs.

As for the PMCs themselves, they recognize not only an opportunity to do business in humanitarian operations and peacekeeping, they believe such operations would help legitimate their business. The latter motive is important for a sector that periodically gains notoriety for servicing unsavory clients or for undertaking freelance adventures of their own. They also face criticism from those voices nervous about discarding the Weberian notion that legitimate deployment of violence ought to remain a monopoly of the state. PMCs would like to define security itself as a humanitarian service, as essential as water, food, education, health and shelter to human well-being. As IHOs continue to identify and call for international action to remedy deplorable violations of human rights, they may find themselves under pressure to endorse PMC deployment as the lesser-of-two-evils, thereby legitimating the privatization of security and contributing to the militarization of humanitarian services.

American military thinkers are already thinking through the implications of their need to be involved in providing humanitarian assistance and protecting IHOs in the field, and PMCs are part of their solution to peace enforcement and peace keeping. Humanitarian organizations have only begun to think about their side of the relationship.

What are Private Military Companies? What do They Do?

Despite a burst of attention to PMCs in academic and journalistic circles, the literature is still relatively contained. Most authors agree that PMCs are not new, differ in some important ways from traditional mercenaries, and can usefully be divided among (1) those providing security, (2) those providing combat support, and (3) those prepared to enter in combat. The paucity of political science literature is about to change. The Institute for Strategic Studies published a study by David Shearer in 1998 suggesting PMCs might have a positive role in peacekeeping because of the reluctance of Western States were unwilling to accept the risk to their regular forces. Two recent books about new mercenary behavior have signaled growing interest among international relations scholars.

Peter Singer's research on the privatization of military approaches the subject with the framework of pluralist international thought. Singer argues that the privatization of military services corresponds to the erosion not only of national sovereignty's external face (national security) but also of its inner face, the Weberian notion of the state as that agency which exercises a monopoly of legitimate violence within its territorial bound-

aries. Like Singer, Robert Mandel, in *Armies Without States*, alternates skepticism about the professed humanitarian goals of PMCs with reminders that historically mercenaries have not been more want to slaughter civilians or their defeated enemies than troops of states.³ Singer and Mandel note that widespread moral condemnation of mercenaries is fairly recent, corresponding to the rise of nation-states that define the roots of their authority in the essence of legitimacy in Weber's conception of legitimate violence. Both critics warn against romanticizing the virtues of state monopolization of defense, especially given the horrors of the twentieth century.⁴

Singer prefers the term "privatized military firm" because of its organizational characteristics and profit-oriented goals. He defines these companies as "profit-driven organizations that trade in professional services intricately linked to warfare. They are corporate bodies that specialize in the provision of military skills—including tactical combat operations, strategic planning, intelligence gathering and analysis, operational support, troop training, and military technical assistance."⁵

The utilization of PMCs has grown exponentially since the end of the Cold War. In the first Gulf War, one in fifty soldiers was a mercenary, and already by the Bosnian conflict the ratio had risen to one in ten. Deborah Avant says that the Bush administration's decision to make greater use of PMCs in its "war on terror" followed upon success utilizing companies such as Military Professional Resources Inc. (MPRI, today part of L3 corporation), DynCorp (today part of CSC), and others in several projects during the 1990s. They were judged to have performed well in training Hungarian forces to bring them up to NATO standards, again in preparing forces Croatia and Bosnia to fight the Serbs in 1995, in Colombia to participate in drug war missions, and in Africa in various military training missions. PMCs themselves expect their revenues, which were \$55.6 billion in 1990, to rise to \$202 billion by 2010. Besides cost savings (disputed by some), the use of PMCs frees regular forces for other tasks and generates less controversy in the media and Congress.⁶

Peter Singer estimates that PMCs operate in over 50 countries and earn up to \$100 billion per year. Global Risks is reported to have 1100 highly trained British, Nepalese and Fijian ex-soldiers working in Iraq, making the company the sixth largest member of the "coalition" occupying the country.⁷ Avant, who has followed PMC developments for several years, estimated

³ Singer (2003) and Mandel (2003).

⁴ As recently as 1854, the British employed over 15,000 German, Italian and Swiss mercenaries to fight in the Crimea. Even after states began to pass neutrality laws forbidding their civilians from serving as foreign soldiers and mercenaries, the British and French found it useful to recruit and deploy, respectively, Gurkhas and the Foreign Legion. See Dangerfield, et. al. (2002); Mandel (2003), 29-53.

⁵ Singer (2002), p. 186.

⁶ Avant (2002).

⁷ Singer (2004).

that 15,000 private security personnel were operating in Iraq as of March 2004. Of these personnel, an estimated 1500 were former members of the South African Defense Force or South African police.⁸ In order to reduce the visibility of its troops, the U.S. was planning to spend \$100 million to guard the four square-mile Green Zone in Baghdad.⁹ The zone is not only headquarters for U.S. military and civilian officials but also the secure zone for Iraqi government officials, who are to obtain formal “sovereignty” over the occupied country after June 30, 2004. Any humanitarian organizations maintaining headquarters within the zone will *de facto* be protected by PMCs.

Post intervention Afghanistan and Iraq, especially, the latter case, have dramatized both the expansion in the use of PMCs and the issues this growth poses for humanitarian organizations. On the other hand, as the number of forces provided by PMCs expands, the pool of highly trained, expert soldiers and sailors shrinks. After the graphically televised killing of the four Blackwater employees (who all appear to have been highly trained soldiers, once part of elite units), some PMCs criticized the company, alleging that it was unprepared to move from training in

Virginia to providing security escorts. As more ordinary employees are put into more dangerous jobs, the image of professionalism valued by PMC lobbyists may become tarnished.

The synergy between NGOs and the policing functions of PMCs are clear in planning for an African Standby Force. African Chiefs of Defense Staff have called for a continental force that by 2010 would respond to requests for action by the African Union, United Nations, or regional missions engaged in peacekeeping, peace enforcement, or humanitarian aid. Such a force will not only need combat capability but training in regard to HIV/AIDS, gender issues, and rights of children. At the G8 Summit in Evian in June 2003, leaders of wealthy countries endorsed a more modest proposal, but with similar objectives. Vanessa Kent and Mark Milan, writing in *African Security Review*, call for the African force to work with NGOs, civil society groups and the humanitarian community.¹⁰ As the powerful center countries of the world system have now privatized major military training missions, inevitably the creation of an African security force would force NGOs to work closely with PMCs.

One cannot assume that deployment of PMCs in any particular situation would prolong or shorten a conflict. Experience suggests that rebuilding civil society and economic infrastructure after conflict remains key to avoiding repetition of conflict after withdrawal of forces, whether private or state forces carry out intervention. However, one cannot discount the “dire scenario for global security, where the world becomes full of so many different groups with significant coercive potential... that maintain peace or even a cease-fire in the long run becomes exceedingly difficult.”¹¹

⁸ Berkowitz (2004).

⁹ Quoted in Collier (2004).

¹⁰ Kent and Malan (2003).

¹¹ Mandel (2002), p. 42.

PMCs are reluctant to terminate contracts and withdraw from dangerous and turbulent zones of conflict for fear of jeopardizing future contracts, but, as private companies, they cannot exercise the same degree of command and control as states do over soldiers. As much as PMC defenders like to point out that the companies have stuck out difficult situations, they face an unanticipated cost escalator as their work has become more hazardous in Iraq – insurance. A dead or wounded mercenary doesn't get veterans' benefits; so companies use the private sector to fill the breach. In the aftermath of the slaying of the Blackwater employees, reports estimated that insurance was accounting for 40 percent of the cost of doing business.¹² If humanitarian organizations are to turn to PMCs for security, it would seem inconsistent with their own ethics not to insist that the firms employees and family be adequately insured. Of course, this may make the cost of using such companies prohibitive.

At one time the humanitarian aid community almost unanimously resisted association with PMCs. Ironically, recent crises in Africa, where some of the more notorious episodes of unsavory mercenary activity have taken place, have eroded this resistance among these groups and academic analysts. Many now believe that in the absence of Western nations' willingness and the African nations' lack of capability to deploy well-trained and equipped force, reliance on PMCs may be inevitable.¹³ As Singer put it recently, "If a private company offered to fly in several thousand troops, would you turn it down and let thousands of people die? Or would the UN Security Council send troops of its own, like it refused to do the last time?"¹⁴

Kofi Annan, the UN Secretary General, has often derided use of PMCs in peacekeeping, but in another capacity he once considered hiring such a firm to deal with the aftermath of the Rwanda genocide. Frustrated with the unwillingness of member states to provide forces to identify perpetrators of genocide among refugees in eastern Zaire, as proposed by the UN High Commission for Refugees, Annan, then head of UN peacekeeping operations, proposed using private forces to disarm these forces. A former employee of the PMC, Executive Outcomes, claims the company was approached and could have entered the country in two weeks and controlled it in six. The timeline may be exaggerated, but no one contests the speed and effectiveness with which the company acted in Sierra Leone and in Angola. Supporters of PMCs argue that had Executive Outcomes been deployed, the subsequent Rwandan invasion of Zaire, which cost nearly 3 million lives, might have been prevented.¹⁵

¹² Borenstein (2004).

¹³ Collier (2004).

¹⁴ Quoted in Collier (2004).

¹⁵ Sabastian Mallaby in the *Washington Post* (June 4, 2001), cited in Mandel, p. 17. Also, Doug Brooks, "Don't Kill the Cavalry," (2003), p. 3. Brooks cites Annan's remarks reported in United Nations press release SG/SM/6613/Rev.1 (June 26, 1998).

The tenth anniversary of the widely lamented failures of the international community in Rwanda provided occasion for PMCs to advance their argument for legitimacy, especially since several situations on the African continent threatened to provide another round of mass violence and the international community was once again finding it difficult to respond. The deployment of a 6,000 strong UN peacekeeping force was put in jeopardy when violence flared in that nation's capital (IRIN report, March 2004). Were PMCs to be utilized instead in such situations, it would help them clean up an image significantly damaged by an unsavory record in the past. For this same reason, African states continue to be reluctant to embrace peacekeeping by PMCs.¹⁶

The expansion PMC activity went relatively unnoticed in the public arena until four employees of Blackwater USA were brutally killed in Fallujah, Iraq on March 31, 2004. The televised brutality of the killings was reminiscent of the infamous 1993 incident in Somalia, which induced the withdrawal of U.S. forces from that country. In the 1990s, Blackwater USA, had grown 300 percent and was playing a key role guarding top American occupation officials as well as Iraqi oil fields in early 2004. The company boasts "the largest privately-owned firearms training facility in the nation."¹⁷

Vague references (e.g., during General Mark Kimmit's news conference on April 12) to their mission of providing food (for military forces or civilians?) were clearly intended to portray the killings as particularly heinous. The effect of associating these employees of a PMC with a supposedly humanitarian operation was to portray them as providers of security, not mercenaries. A similar effect is conveyed in news features on "typical" PMC employees, which often emphasize their background as family men doing a job, not soldiers of fortune. (Curiously, PMCs seem to have few women in their employ.) Doing so obscures the mercenary nature of the PMC business, which draws heavily upon soldiers discharged from downsized state forces.

Factors Driving Privatization of Security

Post-war periods often are characterized by increased mercenary activity, but the expansion of PMC activity in the post-Cold War era seems both quantitatively and qualitatively distinct. The privatization of security conforms to the rise of neoliberal ideology and privatization of state services that have characterized the last 25 years. Security itself has become something bought and sold, and would-be providers has access to a large pool of equipment and labor made redundant by the end of the Cold War.

The U.S. and post-Cold War security trends

In the United States, private security firms have risen and become a major business. Domestic security, once mostly a function of municipal police,

¹⁶ Musah and Fayemi (1999).

¹⁷ Berkowitz (2004).

has become commodified and maldistributed. “Those unable to afford private security providers, but who live close to those who do have such private protection in place,” observes Robert Mandel in reference to the United States, “may indeed witness an increase in their exposure to violence, thus widening the security gap between the rich and poor in a country that places at least a rhetorical premium on equality of opportunity.”¹⁸

The tendency toward privatization of security has been most pronounced and most promoted by the United States, both domestically and internationally. The unwillingness of the U.S. to accept international treaties banning land mines and regulating export of small weapons reflects deeply seated legal and cultural attitudes in the U.S., where gun control is fiercely and successfully resisted by powerful lobbies. Mandal points out that for the first time since the emergence of the nation-state, more arms are in the possession of private individuals than of national governments.¹⁹

The collapse of the Soviet block, besides making thousands of highly trained military personnel available for employment, has led to an enormous stock of equipment, notably helicopters and aircraft, available at bargain-basement prices. *Soldier of Fortune* magazine estimated that “quality refurbished versions” of infantry fighting vehicles “can be had for as little as \$100,00 each.” The magazine helpfully adds, “Scratch a bit and you’re likely to come up with a few Israeli, Ukrainian or South African dealers who also handle more complex items such as claymores, grenades and mortars.” A little less than \$9.9 million is a sufficient budget for a two-month operation in Sierra Leone.²⁰

The sharp reduction of military budgets and discharge of highly trained specialists after the collapse of the Soviet Union and the apartheid regime in South Africa generated a large pool of trained soldiers for employment. In the 1990s, the world’s military forces were reduced by six million. Entire units, sometimes highly trained, were eliminated. An international arms market offering equipment from pistols to helicopters at bargain prices emerged.²¹ The United States armed forces fell from 2.1 million in 1989 to 1.4 million by 2004. This reduction of forces by the hegemon owed more to shifting missions than to any real intention to reduce actual military power. Flexibility to intervene rather than deterrence became the imperative, and PMCs are well suited to the task. It was the administration of President George Bush (the elder) which first resorted to large private contracts after the first Gulf War.

¹⁸ Mandel (2002), p. 116.

¹⁹ Mandel (2002), p. 7. See also p. 45 for a discussion of U.S. gun control policies and PMCs.

²⁰ Venter (2003), pp. 58-61.

²¹ Singer (2002), p. 193, 199. Note that as discharged veterans aid and equipment ages, the initial low barriers to entry and costs of doing business are likely to rise, making it more likely that PMCs will turn to governments for subsidies or build higher costs into contracts.

Smaller armed forces of the core countries can effectively achieve military victory relatively quickly over Third World foes, but the subsequent occupation is more time consuming task requiring larger forces. Some of largest interventions carried out in the name of humanitarianism have been carried out by the unilateral action of hegemonic power, which nonetheless claims to have a lawful mandate.²² High-tech, capital intensive warfare is more suitable for eliminating foes than dealing with the humanitarian issues. Hence, during the 1999 NATO air campaign against the Serbs, PMCs constructed and operated refugee camps outside Kosovo's borders, perhaps the clearest example yet of the militarization of humanitarian assistance through use of privatized security services.²³ Hence, the employment of PMCs in the occupation of Iraq.

Mercenaries by any other name?

Private companies can attract "professionals" with better pay, presenting the unprecedented situation of competition for skilled soldiers between the public and private sectors. Robert Fisk, of London's *The Independent*, reported in March 2004 that British firms have the greatest share of contracts in Iraq, estimated at one billion pound sterling. Personnel recruited away from various Special Forces was earning as much as \$1000 per day. Halliburton, the prime contractor for the U.S. occupation of Iraq, was offering tax-free salaries up to \$100,000. Military sources told one British defense correspondent that ex-SAS (Special Air Service) members recruited into PMC service outnumbered those currently serving in the elite (300 man) unit by a factor of two to one. One UK firm, Armor Group, hired a battalion of British trained Gurkhas as personal bodyguards for employees of the Bechtel corporation. As much as 15 percent of the cost of the \$18.1 billion in Iraqi reconstruction is allocated to security. Dozens of smaller firms have entered the lucrative market, reportedly prompting concern from some British and American military officials. Larger companies, such as Control Risks, echoed the complaint and cited the need for regulation.²⁴

Recent press stories indicate concern in several nations about loss of highly trained forces to PMCs. The lucrative American plan to contract for-

²² Empire's powers of intervention begin not with military intervention but with moral intervention, which is best practiced by humanitarian organizations dedicated to relief work and defense of human rights, say Hardt and Negri. They say, "Today military intervention is progressively less a product of decisions that arise out of the old international order or even UN structures. More often it is dictated unilaterally by the United States, which charges itself with the primary task and then subsequently asks its allies to set in motion a process of armed containment and/or repression of the current enemy of Empire." (2000, p. 37).

²³ Craig Copetas, "It's Off to War Again for Big U.S. Contractor," *Wall Street Journal*, April 14, 1999, p. A21, cited in Singer (2002), p. 187.

²⁴ Fisk (2004); Bruce (2004b).

mer soldiers “trained to NATO standards” to guard the Green Zone in Baghdad threatened to further deplete Britain’s SAS forces, leading a member of the Special Forces unit to tell a military affairs reporter, “We are already on the brink of a manning crisis. About 40 men have already left the regiment in the last year or are in the process of doing so.” Many were joining PMCs offering double or triple the pay and more attractive assignments. Australia’s reward for the excellent performance of its special forces in the U.S. war against Iraq was to see some of them, including a key officer who led 150 commandos in operations behind Iraqi lines, recruited into the ranks of AKE Asia-Pacific, a subsidiary of British owned AKE Group.²⁵

The Australian company’s operations manager agreed not to recruit active troops, but Chile may not have been so fortunate. Blackwater USA recruited its first group of 60 commandos from the Chilean military for training in North Carolina and for deployment guarding Iraq’s oil fields by offering \$4000 a month per recruit, attracting the ire of the Chilean Defense Minister. The South African Police Services unit that guards top officials, including that country’s president, was reportedly facing requests from half of its members for early retirement so that might seek jobs earning six times as much in Iraq.²⁶ A Kurdish guard in Iraq’s oil fields was reported to be making \$120 per month; his South African supervisor was estimated to be earning \$5,000. An \$80 million contract award to Erinys generated discontent with the Iraqi Provisional Government because of the firm’s links with the former militia of Ahmed Chalabi, viewed by many Iraqis as the Americans’ preferred choice to rule their country.²⁷

One consequence of the pay differential between national forces and soldiers employed by PMCs is that soldiers in the former services may come to resent the inferior wages they receive for similar risks. If highly trained personnel leave service to join PMCs, the millions spent on training the armed forces might simply become a form of subsidy to corporations, who not only offer better pay but shorter tours of duty. The cost of training just one member of Britain’s elite SAS forces is estimated at 2 million pound sterling.²⁸ This represents a significant public sector subsidy for PMCs who either have minimum capital costs themselves or, as is the case with Blackwater, operate a large private training facility under contract with military and police agencies.²⁹

Mercenary soldiers are not necessarily less reliable than those who fight in the uniform of a nation; we should not assume that they are more likely to cut and run at trouble. Swiss guards, German Hessians, and more

²⁵ Bruce (2004a) Phillips (2004).

²⁶ Berkowitz (2004); Glantz (2004).

²⁷ Glantz (2004).

²⁸ Bruce (2004a).

²⁹ Blackwater’s contracts include one for \$35.7 million with the Pentagon to train sailors, according to Barry Yeoman in the Man/June 2003 issue of *Mother Jones* magazine.

recently Napalese Gurkhas have proven that fighting for money is not less likely to produce brave soldiers, however, these soldiers were known for their loyalty to their units. By contrast, today's mercenaries are not recruited but assembled in response to client demand. In other words, PMCs "produce security" much as other commodities are produced in the capitalist globalized economy today. "Just in time" production that extends over many different countries coordinated by revolutionary technologies of communication. The labor employed by this company is contracted for a specific project over a specific amount of time, and the contract may be renewed or not at the companies discretion.

Just-in-time production of violence

In their seminal work, *Empire*, Michael Hardt and Antonio Negri argue that "Empire" is a new form of supranational sovereignty whereby the legitimacy of military action, must be ethically grounded and justified as necessary to the pursuit of desired order and peace.³⁰ Their conception of Empire (not to be confused with imperialism as practiced by European powers) is akin to the classical sense of Empire as extended territorial sovereignty of the sort exercised by Rome. Roman legions could not remain exclusively Roman as conquered areas were integrated into an empire. The transnational nature of PNCs corresponds well to the reconstitution of sovereignty associated with globalization; their "just in time" services similarly corresponds well to the reorganization of economic production and services associated with globalization.

Few industries have achieved such a high degree of "flexibility" in use of highly skilled labor. However, unlike other kinds of laid-off workers, unemployed mercenaries may pose a considerable threat. "What do mercenaries do in their spare time?" asks Margaret Drohan, a Canadian reporter. "There is not always a war to fight or some unstable government willing and able to buy the services of trained fighters. Between engagements, as they say, your average soldier of fortune still has to pay the bills. And there are few jobs around, aside from being a mercenary, that require his particular set of skills."³¹

The growth of PMCs is also a function of the voracious consumption of primary materials from the earth's surface. Driven by increased demand, exhaustion of easily accessible resources, and development of new technologies, oil and mining industries are moving into ever more remote territories beyond the effective jurisdiction of the nation state, often in the most political unstable areas of the Third World. Mining companies, especially smaller ones, are eager to protect high risk investments, and neither stockholders, host countries where their operations take place, nor the governments in their home countries seem interested in ask-

³⁰ Hart and Negri (2000), p. 13.

³¹ Drohan (2004).

ing many questions. A spokesperson for Northbridge, one of Executive Outcomes successors, proudly boasts of having flown two planeloads of commandos to intimidate foreign workers held hostage on Nigerian oil rigs. "We brought in a representative of the hostage takers and showed him the guys and their equipment waiting to go in. He got the message."³²

Singer's analysis of the rise of PMCs clarifies an important but ambiguous conceptualization in the nature of Empire: how its constitutional power is simultaneously shared and centered, decentralized yet directed. These antipodes describe well the complex inter-relationships emerging between PMCs, states, and NGOs in conflict situations. The state, argued Singer, is not so much weakening but being strengthened and disassembled.³³ This notion of transformation of state power challenges the assumption that relocations and redistribution of power among international organizations, nation states, and various constituent organizations in international civil society is necessarily zero-sum in all respects.

Human Rights Violators and PMCs

PMCs promote an image of themselves as responsible organizations whose reputations depend on reliability, professionalism, and respect for human rights. The market contributes to their accountability, they say, because their clients insist on it. Indeed, MPRI's contract with the government of Colombia was not renewed after 2000 because of dissatisfaction with the quality of training and the inability of many trainers to speak Spanish. MPRI's activities, says one researcher, were subject to ineffective oversight by the United States, which provided Colombia with the funds.³⁴ The lesson seems to be that market competition may make PMCs eager to protect their reputations, especially if they hope to attract business from IHOs, but profitability still depends heavily upon their ability to deliver military services, and here ethics is secondary. The clearest case in this respect involved the very successful intervention by Sandline International in Sierra Leone, which subsequently became a political liability for Britain's foreign office when the company was accused of violating a UN embargo on arms sales to warring factions in the country.

Some highly troubling issues have accompanied even the success cases. MPRI's training and battle planning for Croatian forces is credited with making the difference in August 1995 in that nation's expulsion of Serbian forces from its territory, but these same troops were implicated in forced expulsion of 150,000 Serb and Bosnian residents from their homes. Mandel claims that one motive for creation of MPRI was "to provide a

³² See Blain (2000?) for details and examples of ties between several companies, their operations, and individuals and companies tied to mining and oil interests. On the Nigerian incident, see Lovell (2003).

³³ Here Singer cites Kevin O'Brien. See Singer (2002), p. 187.

³⁴ Spearin (2002), p. 5.

legitimate outlet for former Special Forces personnel who might otherwise join the retinues of *narcotraficantes*.³⁵

PMCs have shown little inclination to vet their recruits, even though the largest and most established have established codes of conduct with promises of respect for human rights. Many mercenaries have highly questionable pasts. For example, Erinys drew unfavorable attention to itself after the death (in a Baghdad bombing) of two of its trainers, who were revealed to have been a members of South Africa's most repressive units during the apartheid era. The Armour Group was similarly embarrassed by revelations that one of its guards for Bechtel was a former Royal Marine who was jailed for four years for helping the Northern Ireland's extreme Ulster Freedom Fighters.³⁶

Use of PMCs to fight the U.S. drug war in the Andes has brought former soldiers in contact with gross human rights violations and associated them with unscrupulous use of pesticides. The British firm Defence Systems Limited set up a Colombian subsidiary to protect British Petroleum assets in any area of intense guerrilla activity near the Venezuelan border. In 1996-1997 BP and its security forces were accused of involvement in numerous cases of murder, torture and extortion, and the PMC was said to be heavily staffed by army officers accused of human rights violations.³⁷

Only a few of the employees of PMCs fit the stereotype of the unscrupulous paladin, but ex-soldiers with unsavory pasts or recruited from the forces of disreputable regimes are highly visible in some companies involved in the most controversial interventions. In the end, the character of the soldiers is less controversial than the missions they undertake. Journalists and members of the U.S. congress have been frustrated in attempting to get a response from Aviation Development Corporation to explain its role in providing, under contract with the CIA, reconnaissance to the Peruvian air force, which downed a civilian aircraft, killing an American missionary and her young daughter. The PMC, Defense Department and CIA all refer inquiries to the company, which in turn invokes its privacy rights. DynCorp has been employed in the drug war to spray a quarter of Colombia's landmass with toxins concentrated at 26 times the amounts permitted in United States. Besides destroying agricultural activities and biodiversity and by contributing to health problems, the activity has displaced over 36,000 people, third largest in the world. DynCorp responds to critics (and to indigenous Ecuadorians who have filed suit in New York against the company) that it merely follows the directions of its employer.³⁸

This excuse may not let DynCorp off the moral hook, but it certainly suggests that clients who utilize companies must be held accountable, not

³⁵ Mandel (2002), p. 66.

³⁶ Glantz (2004).

³⁷ Mandel (2002), p. 113.

³⁸ Spearin (2003), p. 9.

just the PMCs themselves. So far national governments have shown little inclination or ability to exercise accountability. For example, the United States has failed to hold accountable another PMC, AirScan, employed by Occidental Petroleum to monitor its threatened oil pipelines, for its role in targeting a village for an air attack by Colombian Air Force helicopters. In fact, the Bush (younger) administration pressured the Colombian government, which is signatory to the International Criminal Court, not only to exempt American military personnel from jurisdiction of the court, but employees of PMCs as well.³⁹

The increased deployment of PMCs in conflict situations poses the dilemma for human rights and humanitarian organizations of whether to consider these private fighters to be soldiers or civilians, and consequently how to define their rights under the Geneva Conventions. This issue, of course, has already arisen in regard to prisoners taken by the United States in Afghanistan and detained in Guantanamo, Cuba. The status of three U.S. operatives, employees of a PMC, held prisoner by FARC guerrillas in Colombia for more than a year after their capture in February 2003 illustrates the dilemma. Neither the U.S. government nor their employer, Northrup Grumman (through a subsidiary), have responded to family entreaties for an explanation of their capture or questions about insurance, which has not been paid. More importantly for the international community is whether or not to define these men as prisoners of war and take up their cause on humanitarian grounds.

The status of PMC employees is not made any easier by the variety of tasks they do. At one end of the scale are PMCs that train forces or provide logistical services that do not necessarily require them to carry arms; at the other end are security services that carry arms and, like the Blackwater employees in Iraq or like Executive Outcomes in Africa, are integrated in support of military operations. However, even security guards assigned mainly to accompany convoys or guard installations have suddenly found themselves immersed in firefights in Iraq. The distinction between guarding property or persons and engaging in combat is thin.

However much mainstream PMCs seek legitimation and respect, the sector finds old habits die-hard. Several years of sustained lobbying and public relations work suffered a blow when 67 alleged mercenaries were arrested in Zimbabwe in March 2004 and charged with seeking to overthrow the government of Equatorial New Guinea. The men claimed they were mine security guards. Most, however, were former members of "Battalion 32" a former South African military unit, some of whom had attempted to overthrow the government of San Tome the year in 2003. One of the alleged mercenaries had worked providing security in 1998 as a security guard in Angola for the now disbanded South African firm, Executive Outcomes, which had been linked to oil interests during its work for the Angolan government and with various diamond interests dur-

³⁹ *Ibid.*, p. 12.

ing its work for the government of Sierra Leone.⁴⁰ *The Economist* reported that the coup plotters were linked to a corporation called “Triple Options,” which had links to opposition figures in the Equatorial New Guinea.⁴¹ (It would seem that even coup making can be privatized!)

Executives of PMCs often claim that they have little interest in payment in the form of concessions in mining and oil, arguing that they do not have the capital or expertise to make such operations profitable. This argument is disingenuous, as ownership of subsoil resources is a device for extracting rents from capital, not necessarily operating ones own mines or oil fields. The link between Executive Outcomes and Heritage Oil was well documented, and smaller companies seem to have sprung up with financing from dubious sources, adding unwelcome notoriety to more established PMCs in places like Congo, Zaire, Sierra Leone, and most recently Equatorial New Guinea. Increasingly, larger PMCs are link to larger corporations through mergers or common ownership, as is the case with Sandline and its owner, the industrialist Tony Buckingham.⁴²

On the client side of the equation, Third World states have been pressed by the center powers of the world system to undertake structural adjustment, including significant spending reductions, creating another motive to turn to cost-efficient PMCs. Such was the case, apparently, in Papua New Guinea, where a government under rebel pressure in an important copper-producing area contract with Sandline. Although Sandline’s involvement was untainted by corruption and legal, it generated intense opposition from the World Bank and more importantly from the country’s military, which unceremoniously booted the PMC from the country.⁴³

The Steele Foundation, which provided security for deposed President Jean-Bertrand Aristide in Haiti, refused to comment on reports that under pressure from the United States that he withdrew his employees, who were crucial to providing security for Aristide during the February 2004 rebellion, under pressure from the Bush administration (Collier 2004). On the one, PMCs can cite the Haitian case as an example of how private militaries avoid conflict with the foreign policies of their home states, but the incident also raises serious issues about the loyalty of these forces to their clients.

Can PMCs Be Regulated?

Several of the large PMCs fund a not-for-profit lobby organization, the International Peace Operations Association, headed by Doug Brooks, an indefatigable campaigner for legitimation of PMCs and for regulation. In numerous guest editorials, academic conference papers, and articles,

⁴⁰ Mandel (2002), p. 110.

⁴¹ Diffidenti (2004); Drohan (2004); “Mercenaries in Africa” (2004).

⁴² Dangerfield, et. al., p. 20.

⁴³ Mandel (2002), p. 113.

Brooks makes the case for use of PMCs in peacekeeping and peace enforcement. Brooks argues, "The primary obstacle to greater utilization of PMC peacekeepers comes from a well-intentioned but misinformed international community horrified at the concept of legitimized guns-for-hire, no matter how professional or how critical the need."⁴⁴ Thirty large contractors in Iraq form part of Professional Services Council, an organization also based in Arlington, Virginia, which has lobbied the Pentagon to develop regulations governing relations between PMCs and military commanders in the field.

However, it is clear that different stakeholders have different ideas about the goals and structure of regulation, a matter that should be of some interest to IHOs pondering using PMCs for security.

PMCs seek limited regulation

The large PMCs clearly want regulation, but this should hardly surprise on political or economic grounds. Politically, regulation would in effect legitimize their operations, something that has led organizations like the International Peace Academy to oppose development of a regulatory framework in the UK.⁴⁵ With billions of dollars in contracts available from the hegemonic nations and from large corporations, such firms eschew highly risky, smaller scale operations that are potentially embarrassing to clients and the industry as a whole, so they have less to fear from regulation. Furthermore, regulation would create significant new barriers to entry of new, competitor firms.

In fact, the kind of regulation sought by PMCs typically would seek standards that would be hard for start-up companies to match but fall short of the degree of accountability advocated by military analysts, academics, and critics. The most serious issues involve transparency and vetting of clients. Transparency throughout the corporate organization clashes with PMC insistence on protecting the confidentiality of clients. Some PMCs, such as the ArmorGroup have already put into place policies that prohibit former employees of companies associated with unsavory past activity, and most accept the idea of vetting their personnel. However, PMCs resist regulation formulated around operations themselves instead of licensing of firms. For example, Strategic Consulting International advocates licensing PMCs after vetting and review for general operations rather than requiring licenses for each operation.⁴⁶

⁴⁴ Brooks (2003), p. 1.

⁴⁵ *Ibid.* p. 40.

⁴⁶ *Ibid.*, p. 27, 53. The United States currently licenses PMCs for operations under the International Traffic in Arms Regulations Act., under which State Department and Defense Department jointly regulate export of arms and training. However, only contracts over \$50 million are subject to Congressional oversight, and there are few effective methods of monitoring compliance in place. See Avant (2002).

Logically, then, what the large PMCs seek is a level of regulation that limits competition, bans unsavory activity harmful to its collective interests, and legitimizes its activity with imposing costs or impediments to doing business. Of course, such a self-interested argument would carry little weight with the public, so the stress is placed on avoiding regulation that would hinder rapid deployment, an argument that is bolstered by the claim that rapid response is often needed to prevent humanitarian catastrophes. Conversely, regulation might open the way for doing business protecting humanitarian aid work, supporting UN operations, and peacekeeping. ArmorGroup has been among the most enthusiastic supporters of a regulatory framework for PMCs and proclaims its subscription to the Red Cross Code of Conduct and the Voluntary Principles on Security and Rights, which is not surprising, as the company has perhaps had the most success attracting business from humanitarian organizations.⁴⁷

Despite the lack of a consensus in the UN and the ineffectiveness of national legislation, a regulation regime seems to be taking shape in the form of best practices established by industry groups, standardization of contracts, and the beginnings of information sharing among NGOs. National governments and military officials are facing new dilemmas and increased media attention to PMC activity, and regulatory legislation may follow, especially with larger PMCs supportive to some degree. The emerging regime will fall well short of a systematic international governance system that might help IHOs respond to the dilemmas raised by security challenges.

Anticipating discussion of mercenary issues at the 57th session of the UN Commission on Human Rights, in February 2001 International Alert (IA) recommended that the Commission take a new approach. IA recommended that the Commission recognize that PMCs (which it calls "Private Security Services") posed much broader human rights issues than those associated with interference with state sovereignty, the original reason for appointment of a Special Rapporteur. It cited the need to deal with human rights violations stemming from commercial security measures, abuses in armed conflicts, and abuses related to protection of extractive industries (with special reference to Colombia and Nigeria). Among IA's recommendations were to clarify the responsibilities of users of PMCs and a "new framework for regulation and monitoring" them, possible including establishment of a UN Regulatory Body.⁴⁸ IA's recommendations go far beyond the member state consensus and even father beyond what PMCs want in terms of regulation, but the movement of IA from opposition to all mercenary activity to advocacy of regulation is an indication that the fragmented, inadequate, and decentralized nature of governance in this area is forcing NGO's to rethink their positions.

⁴⁷ Vaux, et. al. (200X), section 3.71.

⁴⁸ International Alert (2001).

Six authors of a thesis for the U.K. Royal Military College of Science (RMC) conclude,

If PMCs are, as some of their lobbyists have suggested, going to work under a UN peacekeeping mandate (and therefore presumably paid for by the UN) then their speed of deployment will still be dictated by the political will and urgency of the Security Council and Member States. For PMCs to suggest an alternative method of operating under the UN is disingenuous and ignores the most fundamental aspect of the UN charter, Member State collective responsibility.⁴⁹

National or international regulation?

Avant calls for the UN to replace the special Rapporteur on mercenaries with an international office to regulate and maintain vigilance over the PMCs.⁵⁰ She argues that even strong regulation on the part of the United States would not be sufficient to ensure oversight and accountability of PMCs. With companies proliferating, clients could just turn elsewhere. In any event, national legislation is not likely to be forthcoming. For example even after the UK's foreign office suffered embarrassment from Sandline International's apparent arms trafficking in Sierra Leone, and after a Parliamentary Green Paper recommending legislation, the move toward regulation lost momentum quickly. PMCs have few permanent assets and can easily pick up and move offshore or dissolve themselves and appear in a new guise. For example, Executive Outcomes obtained a license from the South African government but soon disbanded, partly because of the legislation, partly because it lost the patronage of British millionaire Anthony, Buckingham, who was interested to protect his extensive natural resource holdings in Africa, helped capitalize Sandline.⁵¹ However, if one goes to EO's cached homepage on Google and clicks on "ExecutiveOutcomes.com" one is transported to Northbridge Serviced Group Ltd., offering similar services and personnel.

Without international regulation or extra-territorial application of national law, it is difficult to hold individual employees of PMCs accountable for crimes they may commit overseas. Soldiers of foreign armies are often beyond the reach of host nation governments, but they are accountable to the military court system of their home country, unlike private citizens employed by PMCs. One example of the problem arose when employees of DynCorp (today a subsidiary of Computer Sciences Corp.) were accused of rape and sex trafficking of girls during their service in Bosnia. As part of a state's armed forces, the accused could have been charged and tried in courts martial. In this case they were merely spirited out of the country.

⁴⁹ Dangerfield, et. al. (2002).

⁵⁰ Yeoman (2004). Avant (2002), p. 3.

⁵¹ Blain, (2000?), p. 3.

Brooks answers that unprofessional behavior and human rights abuses are also common in many U.N. mandated operations.

Having no alternative forces to commit, the international community prefers to look the other way rather than risk proper scrutiny. Reluctance to carry out mandates, delay and obfuscation instead of speed and effectiveness, looting and sex crimes are rife. If the UN dares to highlight or investigate crimes or problems, it risks having that contingent pull out in nationalistic anger. When individual peacekeepers are punished for transgressions, more often than not it means they are merely sent home.⁵²

By contrast, criminal behavior and human rights violations contradicts the business interests of PMCs, providing some measure of accountability, he says.

The RMC officers see some exaggeration in the claims being made by industry spokespersons, like Brooks. The UN has not always acted slowly (the Suez crisis being an example), and both member state collective reaction and a standing UN peacekeeping force would be superior responses in their view. PMCs, they point out, lack a significant body of troops at a constant state of readiness, which means that projects larger than small reconnaissance or negotiating teams might be difficult to assemble. PMCs might best be used, they argue, to improve the quality of military personnel provided by contributing countries, especially where the quality of forces of particular donors is in question.⁵³

Brooks' brush may paint too broad swath, but his criticism and the claim that PMCs can enhance peacekeeping cannot be merely dismissed. Singer argues, "If hired such firms would likely be able to supply much more capable military personnel, but any gains in efficiency come at the risk of increasing problems of control, monitoring, and defection."⁵⁴ Mandel, pointing out that peacekeepers provided by states often have serious deficiencies in regard to human rights, believes that "a combination of governments, international organizations, multinational corporations, and humanitarian agencies" could be effective in regulating PMCs. He concludes, "We must simultaneously (1) reduce the demand for the most redundant or inefficient uses of private security; (2) increase the use of private security providers in those circumstances where government security forces are less effective; and (3) make sure that any such use has substantial monitoring and accountability."⁵⁵ Some would extend international regulation to approval of specific contracts and not limit it to general licensing based on vetting of employees or past history.

The ideas on regulation would seem relevant to both private and public sector peacekeeping, but the UN has shown little inclination to develop such legislation. Many diplomats and professional staff at the UN see the

⁵² Brooks (2003), p. 8.

⁵³ Dangerfield et. al. (2002).

⁵⁴ Singer (2002), p. 214.

⁵⁵ Mandel (2002), p. 147, 156.

growth of PMCs as another way for the West to avoid responsibility for the post-colonial political and humanitarian crises of the Third World. At best, most UN staffers, say the RMC authors, see PMCs as a second best alternative to deployment of regular troops, but only with strict accountability to member states and counted as part of their normal troop contribution.⁵⁶ This later provision would affect cases such as the current deployment of PMCs in Colombia where the U.S. Congress has authorized 300 contractors to supplement a maximum of 500 U.S. personnel. The global hegemon is hardly likely to accept such multilateral scrutiny of its mercenary activity. Even if it did so, the several hundred contractors hired separately by the Colombian government or by international oil companies would presumably continue to escape scrutiny.⁵⁷

Conflicting Views of PMCs Among Institutional Actors

Humanitarian organizations, still sorting out issues about cooperation with the armed forces of states, share little consensus about responding to the challenge of privatized security. However, they are not alone, and none of the major stakeholders involved have a unified view.

Attitudes of military officers

One might think that the military's own intelligentsia might find the rise of PMCs threatening, however, most military analysts have been reserved in their criticism, more oriented toward promoting regulation than defending their right to monopolize defense functions. One article published in the journal of the U.S. Army War College even suggested a proper approach to the growth of PMCs and downsizing of armed forces might be the granting of "letters of marque and reprisal," a power granted to Congress in the U.S. Constitution, under which private individuals can be empowered to take military action against nationals of other countries.⁵⁸

This attitude should not entirely surprise as PMCs are staffed by thousands of highly, trained professionals recruited from the ranks of the services themselves. Although this creates competition, the growth of PMCs has also added a new dimension to the idea of the military-industrial complex, especially in regard to the "revolving door" between the public and private sector. For example, Vinnell Corporation, whose chairman is former U.S. Secretary of Defense Frank Carlucci, is now a subsidiary of Northrup Grumman, and DynCorp is part of Computer Services Corporation. Executives and directors of some of the largest companies are former high-level security officials in government. General Carl Vuono, former Army chief of staff, heads MPRI. Other MPRI corporate officers

⁵⁶ Dangerfield, et. al., p. 37.

⁵⁷ See Spearin (2003).

⁵⁸ Smith (2003), p. 113.

include generals who (respectively) once commanded the U.S. Army in Europe, headed the Defense Intelligence Agency, and served as Army chief of staff. These contacts were vital in 2000 in getting the Clinton administration to reverse a ban, issued in 1998 on human rights grounds, on MPRI helping the government of Equatorial New Guinea to defend its oil fields.

Some military analysts see the deployment of PMCs for peacekeeping as useful, in an age of downsized manpower, for freeing regular forces for other tasks.⁵⁹ The RMC study argues that PMCs should not be equated with mercenaries and PMCs. "We will argue that whilst PMCs may or may not necessitate greater transparency and oversight, we do not believe they should be banned for being mercenaries."⁶⁰ Having lived through the unhappy experience of Rwanda and other inadequate missions, military officers associated with these activities have begun to promote use of PMCs. Ian Douglas, a retired Canadian general and then a UN advisor for peace missions, told the RMC study team, "EO [Executive Outcomes] gave us stability. In a perfect world, of course, we would not need an organization like EO, but I'd be loath to say they have to go because they are mercenaries."⁶¹

Attitudes among IHOs

International Humanitarian Organizations have long encountered life-threatening situations in their quest to deliver vital service. Perhaps the most dramatic and tragic circumstance occurred after a car bomb destroyed the Baghdad headquarters of the International Committee of the Red Cross in 2003, inducing the organization to leave for the safety of its staff. However, the organization has reportedly accepted help from PMCs in some circumstances.⁶² Despite the risks, some other organizations chose to stay in Iraq. At least some are using private security.⁶³ Other IHOs, notably Doctors without Frontiers, have seen any association of military units as increasing rather than lessening risk to their personnel.⁶⁴

The RMC authors, after interviewing several executives and officers responsible for security of various humanitarian organizations and for the UN, found, "The NGO view of PMCs runs the breadth of feeling from repulsion at one end to contracted helper at the other," the say. Even the most reticent NGO would be hard-pressed to object to use of PMCs to undertake the hazardous and highly complex job of clearing mine fields in the aftermath of conflicts. At the other end of the spectrum from Doctors with-

⁵⁹ For example, Milton (1007).

⁶⁰ Dangerfield et. al. (2002), p. 7.

⁶¹ Dangerfield, et. al. (2002), p. 22.

⁶² Venter (2003) says that ICI, an American helicopter communications company, flew some free hours for the International Committee of the Red Cross in Sierra Leone.

⁶³ Baker and Stannard (2004).

⁶⁴ *Ibid.* p. 43.

out Frontiers, CARE Canada, a refugee relief organizations, in 2000 issued a paper calling for consideration of a “foreign legion” consisting of “paid, volunteer, professionally trained personnel employed without regard to national origin” to protect humanitarian workers.⁶⁵

Although humanitarian organizations are divided on the ethics and wisdom of working with PMCs, there seems to be a general consensus on the need for regulation of PMCs.⁶⁶ Peter Gantz, executive coordinator of the Partnership for Effective Peace Operations, described as a “Washington coalition of nonprofit aid groups,” recent told a reporter (Collier 2004), “I would love to see the industry more regulated, so you don’t see the fly-by-nights like the ones that have come out of nowhere because of the unprecedented boom in Iraq.”⁶⁷ Koenraad Van Brabant, co-director of the Humanitarian Accountability Project, says that aid agencies turning to PMCs increasingly for risk analysis, training, advice on a particular crisis, and for “security audits.” Some of the companies have been active in de-mining operations and volunteered help in protection of displaced populations. He asks if such agencies are not contributing to the privatization of security and says that despite the likelihood of increased use of PMCs in the future, “there is a wide spread refusal to square up to the subject.”⁶⁸

Some American NGOs in Somalia thought it necessary to align with armed factions in the country to function and prevent theft of food and other supplies. They subsequently found themselves subjected to threats and blackmail from their guards. Their response was to form an InterAction Security Working Group, made up of the American Red Cross, CARE, Catholic Relief Services, International Rescue Committee, Save the Children, and World Vision, to share information and discuss solutions to their security problems.⁶⁹ Anne Paludan, a consultant for the World Food Program, has been quoted as endorsing use of professional security companies, and Oxfam International is cited as having utilized a uniformed security service in Sri Lanka. Such security service is not the same as employing a PMC with a history of combat service, but it certainly represents a step toward a pragmatic rapprochement with privatized security firms.

IA, an NGO based in London with special consultative status to the UN Commission on Human Rights, created its “Privatisation of Security programme” to focus “on the development and promotion of policies and practices which will ensure that the activities of private and security ad military companies have a positive impact on preventing conflicts and building sustainable peace.” Responding to proposals for legislation in

⁶⁵Quoted in Kelly (2000).

⁶⁶ Ibid., pp. 9-16.

⁶⁷ Collier (2004).

⁶⁸ (2004).

⁶⁹ Vaux, et. al. (200x), section 4.4.

Great Britain, an IA study recommended that PMCs be banned from direct participation in fighting when they are not “fully integrated into the armed forces of their clients” and “cannot demonstrate that their contract is not primarily for profit.” On the other hand, “If company activities are not mercenary in nature and actually do contribute to public security and law and order, then their activities should be seen as legitimate.”⁷⁰ In a separate report, IA team questioned the willingness and ability of humanitarian organizations to vet their own security staff. It recommended establishment of a central database as a difficult but necessary start toward regulation.⁷¹

This proposal is not be as far-reaching as it seems. Most companies already claim to be contributing to security. By their nature PMCs are not fully integrated into the forces of their clients (who aren’t always nation-states), and all are incorporated as profit making entities.

Attitude of the UN

The United Nations, reacting to the unscrupulous and destabilizing use of mercenary forces in post-colonial conflicts in Africa, has in general but not consistently preferred outlawing rather than regulating mercenary activity, but the corporate nature of current mercenary activities may render this approach inadequate. Article 47 of the 1977 First Additional Protocol to the Geneva Convention attempted to define mercenaries, the purpose being to define combatants that are not covered by the same guarantees of rights as the uniformed soldier of a state. In 1989, an additional protocol (International Convention against the Recruitment, Use, Financing and Training of Mercenaries) was adopted and sought to make it illegal to employ mercenaries as so defined. Only 20 countries had ratified the agreement as of 2001, some of which have been known to utilize mercenaries themselves. The criteria for application of the Protocol go to the motivations of individuals. Today, most of the relevant actors are corporations who present themselves as offering a service employ such individuals. In 1997 the UN Special Rapporteur, an office created in response to these conflicts, finally took note the rise of PMCs, but little progress toward reforming international law has followed.

The UN itself hired Lifeguard Security, then linked to Executive Outcomes, to guard UN offices and living quarters in Freetown, Sierra Leone.⁷² ArmorGroup claimed in 2002 to include among its clients several UN agencies, including the United Nations Children’s Fund (UNICEF), International Rescue Committee, CARE, CARITAS, the European Commission Humanitarian Aid Office, and the International Red Cross.

⁷⁰ Beyani and Lilly (2001).

⁷¹ Vaux, et. al. (2001).

⁷² Kelly (2000). Venter (2003), p. 68, claims that Defense Systems Limited has provided administrative support for UN operations.

Some agencies in Sierra Leone have utilized a local security company whose personnel at one time worked with Sandline and Executive Outcomes, raising the possibility that some agencies may have unintentionally contracted with personnel involved in past conflicts. The UN High Commission on Refugees already makes extensive use of PMCs and prefers that United Nations Security Coordination (UNSECOORD) undertake regulation of PMCs.⁷³

UNSECOORD (UN Security Coordinator), located far from the field in New York, has resisted. Its own process of contracting security staff takes typically half a year, according to the RMC authors.⁷⁴ UN Guidelines of March 20, 2002 state, "A humanitarian operation using military assets must retain its civilian nature and character, while military assets will remain under military control." The guidelines, however, admit, "Military assistance and support are often essentially indirect assistance which does not interface with the population served and consists of such activities as transport of humanitarian goods or relief personnel, and infrastructure support such as road repairs, airspace management, and power generation."⁷⁵

Between 1997 and 2001, more UN staff died providing humanitarian aid than died in peacekeeping operations, and over 200 members of NGOs lost their lives in the field.⁷⁶ The inadequacy of UN security measures was exposed dramatically and tragically by the August 19, 2003 truck bomb attack on United Nations Headquarters in the Canal Hotel in Baghdad. The subsequent report by the Security Iraq Accountability Panel (SIAP) found both UNSCOORD and humanitarian officials in Baghdad frustrated by lack of understanding and responsiveness from UNSCOORD headquarters in New York.⁷⁷ Even the most elemental precautions seem to have been ignored in both locations. For example, the most deadly part of the attack was flying shards of glass. SIAP revealed that officials had begun reinforcing glass with blast resistant film piecemeal in order to avoid having to implement a tendering process for the work. Not surprisingly, UNSCOORD's top bureaucrat in New York was fired as a result.

Much of the report and most of the news accounts emphasized how broadly responsibility had to be shared among UN officials who believed their offices were unlikely to be attacked because of the humanitarian nature of their mission and prestige of the organization. SIAP criticized the lack of attention to protection of senior UN officials. The main security training provided to humanitarian workers consisted of a CD ROM, certainly a far cry from the intensive training in personnel security that firms like Blackwater provide government officials and corporate executives. Although the report is silent on the question of using PMCs, these findings

⁷³ Vaux, et. al., section 3.5., 3.6.

⁷⁴ Dangerfield, et. al., p. 47.

⁷⁵ Quoted in Archer (2003), p. 38.

⁷⁶ Cited in Dangerfield, et. al. (2002), pp. 44, 45.

⁷⁷ SIAP (2004).

may lend momentum to an upgraded system of security and increase calls for the UN to contract PMCs to provide security in highly conflict situations, or at least to use PMCs to train their own personnel.

Given the depth and global implications of the American occupation in Iraq and the prospect of both prolonged armed resistance and terrorist attacks in response to US state terror, the SIAP findings on the relations between the UN and occupying forces ought to receive more attention than they have heretofore attracted. It was the Office of the Humanitarian Coordinator/Designated Official in Iraq that initiated the return to Baghdad, a request opposed strong by the UNSECOORD Regional Security Officer but endorsed by UNSECOORD in New York.

SIAP recognized “the fast and enormous build-up of pressure from within and outside the Organization for an early return to Iraq, following the total evacuation on 18 March. Given the prolonged dependency of the majority of the population on food aid and other vital supplies, the rupture in the implementation of pre-war humanitarian programmes, in the assessment of most, was likely to result in a massive emergency.” Pressure was coming from member states, both inside and outside the U.S. “coalition”, and humanitarian staff wanted to join their colleagues from other organizations that had already returned to the field. “Very few, if any thought the attitude of the Iraqi population towards the UN could be anything but favourable.”⁷⁸

On the other hand, the report veers away from political reality by ignoring issues arising from collaboration between UN staff and the American occupying force, refusing to come to grips with the consequences of its mission becoming complicit with an occupation that is controversial, to say the least, both inside Iraq and abroad. From the start, according to SIAP, UN activity was under the watchful gaze of U.S. military officials, who monitored the return of UN staff by road from Jordan. The report makes mention of the UN Steering Group on Iraq failing to consider how the Canal Hotel was to be guarded once U.S. soldiers departed the area, but never directly asks whether the provision of security by occupying forces might have increased danger of an attack. Even after UNSECOORD asked that U.S. troops leave the Canal Hotel area, at the request of the head of the UN mission, the U.S. commander left a platoon behind. UN officials provided the soldiers with “accommodations and radios to assist with communications with the UN security officers,” and the troops were allowed use of the cafeteria and Internet facilities as well. US military equipment was very visible on the perimeter of the headquarters.

The point here is not that US forces were asserting control over the UN staff’s work. My intention is ask whether the cavalier attitude about security was merely a result of complacency and incompetence, as the report concludes, or might we attribute the UN’s vulnerability to the lack of a critical political vision about the wisdom of undertaking a mission,

⁷⁸ *Ibid.*, p. 8, 9.

however humanitarian the motives, which can easily be construed as complicit with the imperial violence wreaked on Iraq? Had the United Nations, even in the face of U.S. and British defiance of international public opinion, not recognized that its presence, while intended to provide relief and sustain life could only serve to legitimate the war and occupation, especially since the hegemon had claimed (however questionably) UN authority for its actions, and since UN sanctions so severely undermined the quality of life for a decade?

In few other instances could humanitarian aid have had such obviously political implications. It is much easier diplomatically to isolate security failures than to fault the political factors that undermined the hope of humanitarian workers that their desperately needed services and humanitarianism would serve to shield them from hostility by Iraq forces striking at the occupation. The United States wants the UN to return to organize elections and carry out other humanitarian services under protection of an international force. The security will undoubtedly be much better organized, and PMCs may be given a role, but the political threats to security will remain great.

Humanitarian Policing in the Age of Empire

The convenience or inconvenience of just-in-time military services – whether for training, logistics, provision of security, or actual combat operations – will be what determines their use in circumstances, especially in case where the American hegemon is concerned. Humanitarian organizations will encounter PMCs either directly in the form of solicitations from the firms to utilize their services or on the field, where states increasingly prefer to offer security for peacekeeping or peace enforcement in the form of private contractors.⁷⁹

Humanitarian interventions to restore order in failed states, as well as humanitarian reconstruction after and in the midst of conflict, will almost inevitably result in further legitimation of the privatization of security. The direst consequence may be not the erosion of the nation-state's monopoly of legitimate force, for which we should have little nostalgia, but the commodification of security and, like privatized services and goods formerly provided by states, more egregious misdistribution of security vital to the production of life itself. Private military companies would seem to have become an indelible characteristic of the transition to a post-Westphalian Empire.

⁷⁹ The frequency of such intervention, say Hardt and Negri (p. 18) is creating a “permanent state of emergency and exception” justified by appeals to universal values of justice. Military action takes on more and more the character of policing, which certainly seems to describe the current “war on terror.” The construction of Empire United States is not just imposed from above, it is generated from below by the work of organizations charged with defending life itself, what Hart and Negri, drawing on Foucault, call “biopower.”

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