



GENEVA CENTRE FOR THE DEMOCRATIC CONTROL OF
ARMED FORCES (DCAF)

POLICY PAPER

**THE PRIVATE MILITARY INDUSTRY AND IRAQ:
WHAT HAVE WE LEARNED AND WHERE TO NEXT?**

Peter W. Singer

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DCAF Policy Papers Series

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THE PRIVATE MILITARY INDUSTRY AND IRAQ: WHAT HAVE WE LEARNED AND WHERE TO NEXT?*

Peter W. Singer

The private military industry may be one of the most important, but little understood developments in security studies to have taken place over the last decade. This new industry, where firms not only supply the goods of warfare, but rather fulfil many of the professional service functions, is not only significant to the defence community, but has wider ramifications for global politics and warfare.

Where once this highly secretive industry was little known or heard of, a series of recent events have dragged it into the public limelight. These events range from controversy over the role of military contractors in the Iraq war to allegations of a bizarre 'rent a coup' scandal that spans from Equatorial Guinea to the United Kingdom.

The following paper attempts to provide some transparency and analysis of the private military industry, and does so by exploring: 1) what this industry is and where it comes from, 2) its role in Iraq, 3) the broader implications that Iraq has brought to the forefront of global politics and national policies, and 4) concluding thoughts on policy responses that need to be developed.

The Private Military Industry Elucidated

Privatized military firms, or PMFs, are defined as business providers of professional services that are intricately linked to warfare. PMFs are the corporate evolution of the age-old practice of mercenaries. As opposed to individual "dogs of war", they are corporate bodies that can offer a wider range of services. They specialize in the provision of military skills, conducting tactical combat operations, strategic planning, intelligence, operational and logistics support, troop training, and technical assistance etc.

* This paper is an expanded version of a presentation made at the DCAF-hosted 2004 International Security Forum (ISF), held from 4 to 6 October 2004 in Montreux, Switzerland.

While novel, the rise of this industry actually illustrates how the defence contracting world is moving along the same lines of change that have enveloped many other industries in globalization. That is, it simply repeats a broader shift from the primacy of manufacturing to services that has taken place in other industries and reflects the increasing importance of outsourcing in global business practices.

But what is distinct about PMFs is that the companies within this field embody an industry that represents a profound development in the manner that security itself is both conceived and realized. With the rise of this “privatized military industry”, clients can now access capabilities that extend across the entire spectrum of once state monopolized military activities, simply by writing a cheque.

The private military industry emerged in the early 1990s. Its underlying cause was the confluence of three momentous dynamics – the end of the Cold War and the vacuum this produced in the market of security, transformations in the nature of warfare, and the normative rise of privatization. Professional armies have been downsized since 1989 and stretched thin, while at the same time global instability has grown. In turn, while warfare in the developing world has become “messier” – heightening the demand for capable professional military services – the most advanced militaries are increasingly reliant on off-the-shelf commercial technology, which is often maintained and operated by private firms. Lastly, there has been an ideological push for governmental privatization and outsourcing, with many of the state’s former institutions – schools, prisons, and policing – turned over to the marketplace. This created a new space and demand for the establishment of the privatized military industry. It is important to note that few changes appear to loom in the near future to counter any of these forces.

Not all military firms are alike, nor do they offer the same services, but rather the industry is just as diverse as the general outsourcing trade. The private military industry is divided into three basic business sectors:

- 1) Military provider firms, commonly known as “private military companies” or “PMCs,” (also sometimes self-described as “PSCs” or “private security firms”) offer direct, tactical military assistance to clients, which may include serving in front-line combat. The classic example is the Executive Outcomes firm, a

former South African company staffed by ex-Apartheid soldiers that carried out operations in Angola, Congo, and Sierra Leone. Some even contemplate handing off future UN peacekeeping duties to such firms, who they argue might be able to carry out the job more efficiently and effectively than blue helmets from weak developing world armies.

- 2) Military consulting firms draw on retired senior and non-commissioned officers to provide strategic advisory and training expertise for clients who are looking to transform their organizations. This can give clients a dramatic leg up in terms of their military capabilities. For example, advice and training from the firm MPRI is generally credited with turning the ill-trained Croat militia into a NATO-style army that carried out the highly successful "Operation Storm" in 1995.
- 3) Military support firms carry out multi-billion contracts that provide logistics, intelligence, and maintenance services to armed forces. In an era of downsizing, this allows soldiers to concentrate their own energies on combat and also reduces politically sensitive reserve mobilizations. Companies such as Vice President Dick Cheney's old Halliburton firm and its Kellogg, Brown & Root division, now provide the logistics of every major U.S. military deployment.

Private military activities often lie just behind the headlines in the world's hotspots and have operated in over 50 states on every continent bar Antarctica. Even the world's most dominant military has become increasingly reliant on this industry. In the last decade, the U.S. Department of Defense has entered into over 3,000 contracts with U.S.-based military firms.

It is important to stress, however, that the industry and its clientele are not just an American phenomenon, though, but a global industry, creating a shared sense of global responsibility, even though it presently abdicated. For example, among EU states, many of the new Eastern members, such as Hungary, received PMF training as they transitioned from Warsaw Pact to NATO techniques. Even Sweden has contracted with such firms, hiring MPRI to teach some of the lessons of the Gulf War to its senior military leaders. In external deployments, European militaries are greatly

dependent on such firms, as publics have not been willing to support needed investments in such areas as military transport and support. For example, European peacekeepers in Afghanistan rely on contracted air transport from a Ukrainian firm that flies former Soviet jets. The contract is worth more than \$100 million. Likewise, the British military, perhaps repeating the same mistakes made by the US, has begun to contract out its logistics to the Halliburton firm.

The Role of PMFs in Iraq

Just as Iraq is the single largest U.S. military commitment in more than a generation, so too is it the largest commitment for the private military industry. The numbers for the PMF presence in Iraq dwarf any past operations. Over 60 firms employ more than 20,000 private personnel carrying out military functions (as opposed to the thousands of additional civilian contractors providing reconstruction or oil services). To put this into context, such numbers mean that the private military industry has contributed more forces to Iraq than any other member of the U.S.-led coalition, being nearly equal to all the states excluding the U.S. combined. To be more accurate then, President Bush's claim of a "Coalition of the Willing" might be renamed the "Coalition of the Billing."

With these greater numbers have come greater risks. By September 2004, private military contractors had suffered an estimated 150 killed in Iraq. More than 700 are thought to have been wounded. Again, such numbers exceed those for the rest of the coalition combined and are higher than those for any single U.S. Army division.

Perhaps more important than the raw numbers is the wide scope of critical jobs that contractors carried out and which are very different from those undertaken by civilians in past wars. In addition to war-gaming and field training before the invasion, private military employees handled logistics and support for coalition troops during the build-up to war. The massive U.S. complex at Camp Doha in Kuwait, which served as the launch-pad for the invasion, was not only built by private contractors, operated by private contractors, but was even guarded by private contractors.

During the invasion, contractors served in these roles and also maintained and loaded weapons on many of the most sophisticated weapons systems like the B-2

stealth bomber and the Apache helicopter. They even helped operate combat systems like the Patriot missile batteries in the Army and the Aegis defence system on board numerous U.S. Navy ships.

Private firms play even greater roles in the continuing occupation. The largest, Halliburton's KBR division, has provided the mission's logistics under the LOGCAP contract. In 2003, the firm charged the U.S. government \$4.3 billion for work it had undertaken in Iraq. The 2004 numbers are not in yet, but Halliburton reports it made \$1.7 billion from work carried out in Iraq during the second quarter. Overall, it is thought that the Iraq contracts for Halliburton will ultimately be worth as much as \$13 billion.

To give a sense of how significant such firms have grown to be, the amount that Halliburton will make from the war is roughly 2.5 times what it cost the U.S. government to fight the 1991 Persian Gulf War. Looking at the figures more historically, when the cost of other past wars are put into current dollar amounts, the amount that the U.S. government will pay Halliburton is almost the same as it cost to fight the American Revolution, the War of 1812, the Mexican-American War, and the Spanish American War *combined*. Amusingly, the \$1.8 billion amount that the U.S. Army has accused Halliburton of over-billing, is actually the same amount that it cost the U.S. to fight the Mexican-American War in current dollars (a war which brought California, Nevada, Arizona, New Mexico and Utah into the Union, as well as ensured that George Bush's own home state of Texas would stay part of the U.S.). Or, the U.S. could have taken the Halliburton funds and instead paid \$573.30 to each Iraqi citizen (who numbers 22,675,617), i.e. the equivalent of just under 6 month's wages.

Other roles in Iraq included a range of security sector reform and training activities for local forces, a key task that would be essential to any ultimately successful withdrawal for the coalition. Training programs for the post-Saddam army, post-Saddam paramilitary force, and post-Saddam national police all involved private military firms to some extent. Companies helping these tasks range from Vinnell and MPRI, which had been in the industry for years, to the relative newcomer Erinys, a primarily South African firm that was formed just after the war and won the lucrative pipeline security force contract.

Finally, PMFs provide a range of tactical military roles on the ground, supplementing the currently over-stretched coalition forces. An estimated 6000 of the private contractors carry out armed roles. These roles are usually self-described as “security,” but given that they are carrying out a military job, taking place within a war-zone, and facing military threats, they are clearly a far cry from security guards at the local shopping mall, no matter what they call themselves. This scope of privatization is a striking difference from past PMF operations, both in terms of the mass numbers and the fact that armed PMFs had previously only acted in zones where the great powers were absent, not right alongside their forces.

Three primary tactical services are provided: 1) protection of key installations and facilities, ranging from corporate enclaves and CPA facilities to the “Green Zone,” in Baghdad, 2) protection for key leaders and individuals, all the way up to Ambassador Paul Bremer, the head of the CPA, who was guarded by a Blackwater team that even had its own armed helicopters, and 3) convoy escort, a particularly dangerous task, as roadside ambushes have become the insurgents' primary mode of attack.

PMFs have thus been essential to the overall effort in Iraq. PMFs have filled a gap in troop strength and a variety of roles that U.S. forces would prefer not to carry out. Without PMFs, the operation with its current structure, would likely be compromised. At the same time, though, some of the darkest and most controversial aspects of the war also involved PMFs. These included the allegations of war profiteering that encircled Vice President Dick Cheney's old Halliburton firm, the brutal killing of Blackwater employees at Fallujah by Iraqi insurgents that was captured on TV and the widespread fighting that followed, and the role of CACI and Titan contractors working as military interrogators and translators at the now infamous Abu Ghraib prison.

Simply put, one could not tell the story of the Iraq war without any discussion of PMFs. This is a huge change not just for future military histories, but also for an industry that had spent the last decade largely under the radar screen of public attention

Public Security Issues, Private Military Dilemmas

The mix of the profit motive with the fog of war in Iraq, not only brought the private military industry into the news, but also served as a living laboratory for the industry and its activities within the public military sphere. Five key implications of the trend of privatization played out in Iraq.

1) Military Contractual Dilemmas

Firstly, when it comes to military responsibilities, the incentives of private companies to turn profit may not always be in line with the client's interests or those of the public good. While in an ideal world there would be good competition, management, and oversight, producing cost and qualitative efficiencies, governmental contracting is not always set up to ensure this. Thus, the general concerns with any contracting handover (overcharging, over-billing hours, providing insufficiently trained personnel, quality assurance issues, etc.) cross over into the military realm.

This has been at the centre of the war-profiteering allegations thrown at such firms as Halliburton and now Custer Battles. These firms were operating under cost-plus contracts that were ripe for abuse, with the Halliburton examples ranging from overpriced gasoline to charges for services not rendered (such as billing for meals not cooked or convoys shipping "sailboat fuel," as firm truck drivers laughingly termed charging for moving empty pallets from site to site). At least \$1.8 billion of Halliburton's charges for work in Iraq are presently in dispute by the U.S. Army for insufficient documentation. Just looking at the food services part of Halliburton's contract, U.S. Army auditors have reported that KBR overcharged by an average of around 40%.

Even more important than lost taxpayer dollars is the question of lost control. PMFs lie outside national military controls and structures, so clients must also worry about how they can replace such services if things go awry or should the firm or its employees refuse to carry out orders in the midst of a crisis. Contractors exist within a business and even though they are doing military jobs, they are not in the military. Business is a civilian realm that falls outside the military chain of command and justice system.

Thus, with contracting, two levels of decision-making are added that do not exist within the military. The first is at the unit/corporate level. A company has the choice of what contracts to take and when to depart or "suspend" operations because it believes that the situation is too dangerous relative to the rewards. These business decisions though put the military at their mercy. During the deployment delays in the summer of 2003, the upsurge of violence in April 2004, and the mass of contractor kidnappings of July 2004, U.S. forces in Iraq faced a wave of firms delaying, suspending, or ending operations because they found it too dangerous, with the inevitable resultant stresses on the level of supplies and troops' welfare.

Likewise, PMFs have another new level of decision at the soldier/individual employee level. Whereas a soldier has no legal discretion once they enlist or are drafted, an individual employee decides who he or she wants to work for, where, and for what price, and then, once in theatre, still has the choice on when to stay or leave (whether they get a better job offer from a competing firm, think the mission and/or their superiors are not worth it, or simply because they are tired of the job, want to see more of their family, etc.). Some firms and individuals exercise these rights and some don't. The reasons that they do or don't range from personal honour to patriotism to raw profits. An added complication is that many firms hire employees who have never worked together or bring in 3rd party nationals – for the sake of limiting costs. But these individuals are even less bound by the bonds of group loyalty or patriotism, thus demonstrating how gains in one area can harm another.

2) *The Open Military Market*

Secondly, the private military market is global, but it is also effectively unregulated. This means that a broader set of military capabilities are available outside state control, with the decision of who gains such skills and expertise granted to the firms themselves. To put it another way, there are insufficient controls over who can work for these firms and who these firms can work for. PMF employees have ranged from distinguished and decorated veterans to some true bad apples who do not best represent the government or the public interest. The discretion on recruiting, screening, and hiring for public military roles has been largely left to private firms, with mixed results. In Iraq, this problem was magnified by the gold rush effect, where

multiple firms entered the market that were either entirely new to the business or escalated in size in a manner reminiscent of the height of the Internet boom.

On the skills side, many PMF employees represent the peak of the military profession. For example, there are a great number of recently retired “tier one” U.S. Special Forces operators (arguably among the best soldiers in the world) in Iraq, as well as more ex-British SAS troops than serve in the current SAS force. At the same time, however, the rush for profits and mass numbers have brought in a lesser crop of skills, with potentially grave consequences. For example, U.S. Army investigators of the Abu Ghraib prison abuse were deeply concerned about the CACI contract, finding that “Approximately 35% of the contract interrogators [author’s note: hired by the CACI firm] lacked formal military training as interrogators.”

On the human rights side, the vast majority of PMF employees are honourable men and women. However, many firms have had minimal or insufficient screening – or none at all – hiring individuals with questionable backgrounds that proved embarrassing and/or worrisome, not just for the firm, but for the wider public mission. Darker examples in Iraq range from one firm hiring an ex-British Army soldier who had earlier been jailed for having worked with Irish terrorists to another firm bringing in an ex-South African Apartheid soldiers, including one who had admitted to firebombing the houses of over 60 political activists back home.

The problem of clientele mirrors that of the employee equation, with corporate best practices in great variance, and often in contradiction. PMFs have been employed by a range of democratic governments, the UN, and several NGOs in the humanitarian aid and even environmental fields. At the same time, PMFs have gone to work for dictatorships, rebel groups, drug cartels and pre-9-11, two al Qaida linked jihadi groups. The recent “rent a coup” episode in Africa, involving the Logo Logistics firm, illustrates the problem of teasing out exactly what is the right or moral thing to do in the absence of external guidance or rules. On one hand, the firm has been accused of fronting for outside interests in the profit motivated toppling of a government. However, at the same time, the supposed “victim” was hardly innocent. The government in question (Equatorial Guinea, led by a president who took power by killing his uncle) may have been “legitimate” under archaic international standards, but was a wholly ruthless human rights abuser of the worst sort.

3) *Public Policy through Private Means*

The private military industry provides the new possibility of seeking public policy ends through private military means. This allows governments to carry out actions that generally would not gain legislative or public approval. This can be an advantage in meeting unrecognized or unsupported strategic needs, but can disconnect the public from its own foreign policies. The increased use of contractors in Colombia is an illustration of this trend in the covert operations side.

As the stark public division over the Iraq war illustrates, this can be worrisome even for overt, discretionary operations. The use of PMFs in Iraq appears to be driven less by any supposed financial cost savings and more by political cost savings. Indeed, in many situations the government not only didn't make an attempt to see if contracting would save it money, but instead set up structures that almost ensured it would not. However, the mass use of contractors meant that many tough decisions, which would have caused political costs, particularly in a presidential campaign season, could effectively be outsourced. In lieu of the 20,000 private military contractors sent to Iraq, the U.S. would have had to either expand the regular force deployed, call up even more national guard and reserve troops, or have made tough political compromises with allies or the UN. Instead, it avoided these decisions by using contractors. Such a choice importantly also came with the positive externality of contractor casualties largely staying out of the news. Indeed, the American media made a major news story in the late summer of 2004 that casualties had passed the 1000 killed in action mark, thus putting a great deal of pressure on the Bush Administration. However, they missed the fact that such a figure had long been passed, when one counted the contractor deaths.

The end result of outsourcing as a means of undercutting transparency in foreign policy is not yet known. However, it does raise concerns for the long-term health of democracies. As Arthur S. Miller once wrote "Democratic government is *responsible* government – which means *accountable* government – and the essential problem in contracting out is that responsibility and accountability are greatly diminished." In considering the Iraq war more specifically, one must query the signification of an operation only being able to drum up support if the costs are shielded from the public?

The outsourcing of public policy also changes the environment in which public discussion and debate takes place. Not only does it lessen transparency (for example, Freedom of Information requests are not possible with PMF contract or corporate documents), but it also means that important public policy debates and research now take place within a context of private corporate interest. Concern over corporate image and stock price results in lobbying and other attempts to influence public policy and public discussion and research through other means. These range from the growing numbers of lobbyists that the firms employ to promote their work on their behalf and the campaign donations they make to the threats and rewards offered to analysts in the field, in an attempt to create bias or alter public research.

It is important to note that, given their dependence on government contracting, the firms and their lobbyists are using funds that originated from the public taxpayer not only to influence public policy towards their own private advantage, but also to prevent public commentary on a matter of public policy. So oddly enough, the private military industry brings us back to the core questions about the health and vitality of our democracy that troubled the Founding Fathers of American democracy, and most significantly the authors of the Federalist Papers.

The Founders' plan for government in the United States sought to make officials responsive to the general interests of this citizenry. In turn, their plan also set up internal controls designed to check the ambitions of those holding power within the government. As these debates took place, the authors of the Federalist Papers, John Jay, Alexander Hamilton, and James Madison, warned about the role of any private interests in governance, who they saw as not responsive to the general interests of a broadly defined citizenry. That is, when private interests move into the public realm and the airing of public views on public policy are stifled, governments are at risk of making policies that do not match the public interest.

4) *PMFs and the Legal Gray Area*

Iraq also tellingly illustrates the dilemmas that PMFs have introduced on the legal side. Private military firms and their employees are integral, inherent parts of military operation. But, at the end of the day, they are not part of military. This means that the old legal codes, which seek to create a sharp delineation between civilians and

soldiers, are not readily useful. For the U.S. military, a special legal category had been created for contractors in the past in which they were to be defined as “civilians accompanying the force.” But given the scope and size of PMF involvement, this categorization is equally archaic. One cannot describe PMF employees as simply travelling with the force like the sutlers of old (the merchants and camp followers who sold their wares to troops in the field, up to the 1800s), when they are carrying weapons, interrogating prisoners, fixing tanks and fulfilling other mission critical roles. This leaves a disturbing legal vacuum. Phillip Carter, a former US army officer now at UCLA Law School, notes: "Legally speaking, they [military contractors] fall into the same grey area as the unlawful combatants detained at Guantánamo Bay."

Thus, the industry and its use has moved faster than what the legal side has been able to keep pace with. This creates a worrisome phenomenon, both for contractors and the broader public good. On the contractor side, the lack of clarity means that if they are captured, it is up to their adversaries to define their status. An illustrative example is the case of the three American employees of California Microwave Systems, whose plane crashed in rebel held territory in Colombia. These three PMFers have since been held for more than 18 months, with their Geneva rights as POWs not upheld by the rebels or their own U.S. government clients.

Such difficulties also play out on the side of accountability, in that it is often unclear who, how, when, where, and which authorities are to investigate, prosecute, and potentially punish crimes committed by PMFs and/or their employees. While the military has established legal structures that constitute the court martial system, the legal status of contractors in war zones is murky. Soldiers are accountable to the military code of justice wherever they are located, but individual contractors are civilians—not part of the chain of command. How a business organization and its chain of command as an organizational entity are held accountable is even further removed from the present system.

International law does not define the status of contractors (they don't fit the international mercenary definition) and, other than the untested International Criminal Court, it lacks the actual means to enforce itself without the state. This defers the problem to the state level. Normally, an individual's crimes fall under the local nation's laws. But PMFs typically operate in failed state zones; indeed, the absence

of a local state is usually why they are there. In Iraq, there are no established Iraqi legal institutions and, in any case, coalition regulations explicitly stated that contractors don't fall under them.

This then puts the question to the home state of the contractor. However, because the acts were committed abroad, the application of home state law is problematic. Some states, such as South Africa, have effective laws but no means to enforce them, while other states, such as the U.S. have certain aspects of laws, but large gaps in them. For most of the world's governments, though, there are simply no applicable laws that regulate and define the jurisdictions under which PMFs operate. As one military lawyer succinctly puts it: "There is a dearth of doctrine, procedure, and policy."

The result is that more than 20,000 private military contractors are present in Iraq, have been deployed there for more than a year and a half, and yet not one has been prosecuted or punished for any crime. As a point of comparison, the like-sized town of Westport, Connecticut, with a fairly high per capita income of over \$70,000 a year, has a crime rate of above 28 per 1000 citizens. Thus, we can only conclude that with PMFs in Iraq we have somehow stumbled upon the perfect village, in the midst of a war zone, where human nature has somehow been overcome, unlike in the most bucolic villages. Or, we have a clear combination of an absence of law and political will.

This state of affairs had grave consequences in the Abu Ghraib prison abuse case. A reported 100% of the translators and 50% of the interrogators were private contractors from the Titan and CACI firms respectively. The U.S. Army found that contractors were involved in 36% of the proven abuse incidents and identified 6 PMF employees in particular that were culpable in the abuses. However, not one of these individuals has yet been indicted, prosecuted, or punished. This is despite the fact that the US Army has found the time to do so for the enlisted soldiers involved.

Equally, the investigatory side has ignored the corporate chain of command and whether any decisions merit punishment, such as CACI's contracting and screening practices that the U.S. Army made a point to mention in its reports. Indeed, the only

formal investigation of the corporate role was one conducted by the firm involved. CACI's investigation found that CACI did no wrong, which hardly seems reassuring.

The result is that PMFs comprise the one remaining industry whose behaviour is dictated not by the rule of law, but by simple economics. When employees in other industries commit crimes, there is a clear system of response; but for PMF employees, it is decidedly absent. At the corporate level, there is an equivalent striking absence of regulation that is able to set standards from the outside, monitor, and enforce them. To put it more bluntly, the cheese industry is better regulated than the private military industry.

The general absence of law within this critical realm should be of deep concern to those that care about law and order. It stands as a clear challenge to the belief that legal norms underscore good behaviour in the international arena. Moreover, it presents a general test to the law. For if laws are absent, unclear, or seen as inappropriate, the respect for them and their resultant effectiveness certainly will be diminished.

5) *Private Questions for the Public Military*

Finally, the extensive use of private contractors in public military roles raises a series of long-term questions for the military itself. The military profession, and most particularly the officer corps, has long seen itself as a unique profession, set apart from the rest of civilian society, as it is held accountable for the safety and security of that society. As Samuel Huntington first wrote in his epic work, 'The Soldier and the State', "All members of society have an interest in its security...but the officer corps alone is responsible for military security to the exclusion of all other ends." In exchange for taking on this central role, soldiers receive special honours and dispensations ranging from effective dominance over security decisions to pension plans (increasingly inadequate though), designed to allow for multiple careers over the course of a lifetime.

The introduction of PMFs and their recruiting from within the military, to take on military roles, brings a new dynamic into this realm. PMFs signify the morphing of this once unique professional identity onto the regular civilian marketplace, while at the

same time the loss of many of the public roles that the regular military had once monopolized.

Thus, soldiers tend to have a mixed attitude about PMFs. On one hand, they feel deeply over-stretched and overburdened in today's security environment. While they are deployed on a range of global missions and now enmeshed in Iraq, the U.S. military is actually 35% smaller than it was at the height of the Cold War and the British military is as small as it has been since the Napoleonic wars. PMFs are thus filling a gap in the force structure that soldiers recognize and worry about. Additionally, PMFs offer the potential for many soldiers to have a second career that still keeps them within an occupational field they know and love.

However, there are also brewing concerns within the military itself about what this industry will mean for the health of the profession, as well as general resentment over firms and individuals using the profession (and the training and human investment that the military provided) for personal or organizational profit. Soldiers look at many of the roles taken over by firms – from training to technical support – and understand why they were outsourced, but worry whether the loss of these professional skills and functions will be permanent and/or hamstringing the military in the future. For example, interviewees in both the military and the PMF industry agree that many of the top logisticians and combat skills trainers in the world (including those that train U.S. forces before they deploy into Iraq) now lie in the PMF industry. Likewise, an increasing number of the teaching slots at military command staff colleges are outsourced. In the past, such warrior-intellectual slots served as the breeding ground for future generals (by some reports almost half of all U.S. Army division commanders in World War II). With military privatization, this is lost.

A more particular problem area that Iraq has brought to the fore is how an expanding PMF marketplace has the potential to hurt the military's retention of talented soldiers. Soldiers in the PMF industry can make anywhere from 2-10 times what they make in the regular military. In Iraq, the rates have grown astronomically, with former U.S. special forces garnering as much as \$1000 a day, former South African troops making as much as \$4-6000 a month, and Nepalese Gurkha fighters making more than \$2000 a month, each far past what they would make at home.

While soldiers have always had competing job options in the civilian marketplace, such as the ballyhooed example of Air Force pilots leaving to fly airliners, the PMF industry is different in two key manners. The first is that offers from PMFs keep the individual within the military sphere, meaning that there is not a requisite additional training and the transition is far smoother, in some cases effortless. Many PMF employees also believe that, as they are carrying out a public function, they carry on the same code of honour and patriotism, the only difference being that they are being better paid. But, the PMF industry also differs by being directly competitive with the military. It not only draws its employees from the military, it does so to fill military roles, thus shrinking the military's purview. The overall process is thus brilliant from a business standpoint and self-defeating from the military's perspective. The PMF uses public funds to provide higher pay and then charges back the military at a higher rate, all for the human capital investment that the public institution originally paid for.

While the data is still hard to come by, as the retention issue in the U.S. has become politicized and "stop-loss" programs that force soldiers to stay in the military skew the results, it is inarguable that the PMF industry draws its employee base from former soldiers who are often exceptionally talented. It is also inarguable that PMFs directly recruit both soldiers in Iraq and those just returned (indeed, beyond the advertisements in military magazines and handing out of cards in the operational zone, most job fairs take place at military base areas), offering them an opportunity to face the same risks, just at several times the pay.

The issue has become pointed for Special Forces units, as they have the most skills (from the longest human capital training investment) and, in turn, are the most marketable for the firms to their clients. Special Forces commanders in Australia, New Zealand, the United Kingdom, and the United States have all expressed deep concern, with the policy responses ranging from the creation of special working groups of NCOs to explore the retention issue to allowing troopers to take a year's leave of absence, in the hope that they would make their quick money and return, rather than be lost to the market forever. In the U.S., the issue of retention among the tier one Special Forces operators, the absolute best in the field, has not yet weakened the units, but is "at a tipping point" in the words of one interviewee. This is particularly the case among the most experienced (10 plus years), members of the units who are so integral to long-term unit cohesion.

The Policy Response

The result of these developments is that the private military market has expanded at a break-neck business pace, while the government has yet to even recognize its responsibilities as the public regulator or even as a non-gullible client. The outcome is a distortion of the free market that would shock Adam Smith, an interface between business and government that would awe the Founding Fathers, and a shift in the military-industrial complex that must have President Eisenhower rolling in his grave. Without change, this is a recipe for bad policy, and bad business.

1) Transparency on the Accounting-Side

Four key measures of response must be developed. The first is to finally lift the veil of secrecy that surrounds the industry. While the obvious focus would be on the covert operations, transparency is actually more needed on the Enron-like accounting side of the ledger. Far too many of the public numbers in the PMF industry are baseline figures or estimates. For example, the Pentagon simply does not track the overall numbers of PMF employees it has working on its behalf in Iraq nor the number of PMF casualties within its operations. Similarly, the contracts are treated as proprietary and are thus not open to public scrutiny in the way that other public documents are.

Thus, the client in this case must exercise its rights by undertaking a comprehensive survey to finally figure out the full scope of what it has outsourced and what the results have been – where has it succeeded in its aims and where has it failed. This is the only way to learn the right lessons and maximize results. The government should also require that all current and future contracts be releasable under FOI requests as is the case with other government documents and that each have what are called “contractor visibility” measures, which would list the number of employees tasked with carrying out the functions and what they are being paid. Industry lobbyists have fought these reforms with good reason. Such requirements would not just create awareness but shine some light onto outrageous billing practices. Legislatures must resist corporate donors and support the military in this effort to finally bring some transparency and accompanying financial sense to the matter.

2) *Standards on Outsourcing and Privatization*

Secondly, the military must take a step back and figure out just what roles and functions should be privatized and which should not be in the best interests of the national security and the public. Not just the public, but many in the military have been just as surprised and misinformed as the public regarding the extent of privatization in Iraq. For example, a 4 star general who was interviewed was not even aware that any contractors in Iraq were armed, let alone that there were 6,000 of them, while serving U.S. Army military interrogators were stunned to learn of the role of contractors at Abu Ghraib.

A general lesson of outsourcing and privatization in other fields, from cities privatizing garbage collection to Cisco outsourcing its router production, is that privatization can be greatly beneficial, up to the point that it begins to move into core functions. This equally holds for the military. It would appear that the old military doctrine on contracting, which has been ignored over the last few years, provides the best guidepost. The military's determination had been that if a function was "mission-critical" or "emergency essential" (that is, effecting the success or failure of the operation), then it should be kept within the force. It also held that civilians should only be armed under extraordinary circumstances for their self-protection, and certainly not be deployed in roles that mandated it as a functional requirement. We must either return to respecting these older, well thought out standards or create new ones. The present mode of ignoring the doctrine creates ad-hoc decision-making and inferior results.

3) *Oversight Capacity*

The third lesson seems self-evident, but is equally ignored all too often: privatize something if it will save you money or raise quality. If not, don't. Unfortunately, our CEO-filled defence leadership has forgotten Economics 101 and has all too often outsourced first and not even bothered to ask questions later.

In theory, privatization can be greatly beneficial, but that theory is frequently directly undermined either by a misunderstanding of the assumptions that are included in it or by the manner in which it is carried out. That something is private is not inherently

better, quicker, or cheaper. Rather, it is through following the free-market mechanisms that one gets better private results. If the task is put up for competition on the open market so as to get the best price, the firm is able to specialize, the client is then a careful steward of the process, able to provide oversight and management to guard their own interests, and that, finally, the firm is properly motivated through the terms of the contract and a fear of being fired, then success can be achieved. Too often, though, the government forgets these simple lessons and rather than getting the best of privatization, it obtains the worst of monopolization.

Simple business expertise will thus aid the government to become a better client. When it comes to assessing the costs and benefits, a smart client runs their own numbers. Sadly, a number of PMF contracts simply began when a firm came in claiming that it would save money and no one examined the claim for themselves (nor did they consider what would happen afterwards either) or even when firms that did the financial analysis were allowed to compete for the same contract. Good competition yields better quality and prices. By comparison, some 40% of U.S. Department of Defense contracting is non-competed, with more than \$300 billion non-competed contractor work arising over last five years. In many cases this could have been solved had government employees simply followed current contracting rules. For example, in reports about the contracting with the CACI firm at Abu Ghraib prison, Army investigators not only found that an employee of the firm may have helped write the work order, but that the request for contract interrogators was run through a computer services contract dating from 1998. Leaving aside whether it made sense to outsource interrogation at a military prison, to do so within an outdated contract (indeed, 1998 numbers even for computers would be woefully out of date), means that the military never even tried to find out what a fair market price would be for interrogators.

The military must also recognize that it is entering the business world in its relations with PMFs and must act so as to jealously guard its own and the public's interests. This requires having sufficient eyes and ears to oversee and manage contracts, to ensure that they are drawn up to meet the client's specifications in both quality and cost. Unfortunately, Iraq illustrates how the military has fallen woefully behind pace with the extent of its contracting. GAO investigators advised in 1997 that the amount of oversight of the Balkans operations contracts was inadequate. In Iraq, the number

of contract officers and officials doing oversight was two times the Balkans size (only at its high point, as at earlier periods in the operation it was much lower). However, the size of the Iraq contracting is more than 15 times larger than in the Balkans and infinitely more complicated as it is taking place in a war-zone and involves a greater range of roles.

The contract structure is also of great importance. In far too many cases, the "cost plus" arrangement is utilized, despite the fact that it has frequently proved problematic. In effect, this contract structure rewards companies with higher profits the more they spend. When combined with lax or absent oversight, it is ripe for abuse and inefficiency (as we have seen with the accusations of over-billing that have swirled around Halliburton and Custer Battles). It has no parallel in the best practices of the business world, for the very reason that it runs counter to everything Adam Smith wrote about free markets.

To have a successful outsourcing experience, we must let the markets work for us, rather than doing our utmost to defeat them. The potential punishment of being fired or the costs of a terrible repute allows the marketplace in other business realms to be self-correcting. However, these usual sanction mechanisms that increase efficiency in contracting have too often been short-circuited. For example, both Halliburton and CACI were rewarded with massive contract extensions for work in Iraq, despite being in the midst of governmental investigations for their prior actions there. This sends a terrible signal not just to such firms, but also to their would-be competitors, as well as to the men and women who are supposed to be doing the oversight and investigation. Similarly, the largest armed security contract in Iraq, worth \$293 million, went to the Aegis firm, a relative shell structure, which had no past contract in security coordination of this type, was led by a CEO with a controversial reputation from having been involved in two major international scandals, had never before had a major contract in Iraq, and was not even on the State Department's list of recommended security companies in Iraq. This is not how the process is supposed to proceed.

4) Legal Accountability

Finally, action must be taken on the issue of legal accountability. This is not only important for the task of regulating the industry and the individuals within it, but also to our responsibility to our public military. To pay contractors more than our soldiers is one thing; to give them a legal free pass (as is currently happening with Abu Ghraib) on top of that is unconscionable.

Loopholes must be filled and new laws developed that control for the variety of legal and jurisdictional dilemmas that the industry has raised. A key requisite is to extend legal clarity to the questions of who can work for the firms, who the firms can work for, and what bodies and codes will investigate, prosecute, and punish any wrongdoing and in which domains.

Clearly, as a transnational industry, there is the need for international involvement, with proposals ranging from an updating of the international anti-mercenary laws to creating a UN body that sanctions and regulates PMFs. However, one must realize that any movement on the international front will take years if not decades, while the PMF industry is in the here and now. This means that each state that has any involvement with the industry, either as client or home base, has an imperative need to develop and amend its laws that are relevant to PMFs. This may sound like an extreme burden, but dealing with the new legal challenges of new industries is a requirement to ensure a living law, the same as states have had to do with the rise of telecommunications or the internet.

In an ideal arrangement, states will coordinate their efforts and attempt to involve regional bodies to maximize coverage and ease the path to international standards. For example, the discussions about regulation that are set to begin in the United Kingdom would do well to coordinate their efforts with the EU states. The U.S. would similarly do well to communicate on this issue with its friends and allies.

It is to be expected that many firms will argue and lobby against regulation (not all though, as the top-market firms will benefit), asserting that market forces and industry self-regulation is sufficient. This is not only easily disproved by the variety of PMF examples cited throughout the text (which should have been prevented if market

forces were sufficient), but also by the failures of past self-regulation in fields from oil and gas to mining. It is for this reason that no other industry is entirely self-regulated and neither should the PMF one be, particularly given the stakes of its business. Moreover, the legal gap extends to the individual conduct level, not just corporate behaviour; the best industry of self-regulation lacks any sanction beyond market punishment, which is clearly insufficient for actual crimes, including felony offences like rape or torture in a prison. We have laws to govern for the worst of human behaviour; in no other domains than this do we simply hope for the best in their absence.

Conclusions

In many ways, the private military industry sounds like something right out of an adventure novel or a Hollywood movie. But the privatized military industry is no mere fiction. Private companies are not only operating in warfare today, but are, in fact, integral to many military operations. PMFs have been operating on the global scene for more than a decade now and have reached new heights in their growth as a result of the Iraq war. In looking at their underlying causes, the forces that drove this growth seem set in place. Much like the Internet boom, we can expect many of the firms that are currently riding the money train in Iraq to disappear if that conflict cools down, but the overall industry is expected to be here to stay for at least the next decades.

Despite this, the government remains woefully uninformed and ill-equipped in its relations with the industry, as either client or regulator. The strength of systems of democracy and capitalism is that they are supposed to be self-correcting and self-improving. When mistakes are made, lessons are learned so that the errors are not repeated. When it comes to the private military world, though, our government seems to be doing its utmost to learn nothing. It repeatedly ignores not just the basic lessons of better business, but also those of smart public policy. This must change.

In the end, meeting security needs with private military solutions is not necessarily a terrible or impossible thing. That said, like all other privatization experiences, it clearly carries both advantages and disadvantages that must constantly be weighed and mitigated through effective policy and smart business sense. However, we must

proceed with wisdom and caution, as the stakes in warfare are far higher than other business realms. In this most essential public realm, where national security and people's lives are at stake, we must be doubly sure of our dealings with private industry. An old proverb states that "War is far too important to be left to the generals." The same holds true for the CEOs.



Geneva Centre for the Democratic Control of Armed Forces (DCAF)

Established in October 2000 on the initiative of the Swiss government, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) encourages and supports States and non-State governed institutions in their efforts to strengthen democratic and civilian control of armed and security forces, and promotes security sector reform conforming to democratic standards.

The Centre collects information and undertakes research in order to identify problems, to gather experience from lessons learned, and to propose best practices in the field of democratic governance of the security sector. The Centre provides its expertise and support, through practical work programmes on the ground, to all interested parties, in particular governments, parliaments, military authorities, international organisations, non-governmental organisations, and academic circles.

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