

Militarizing P3s: The State, New Public Management  
And Outsourcing War

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*...the extent to which the state has a monopoly of physical force and the extent to which the use of physical force is legitimate are variables, not elements of a definition. [Levi, 2002: 40]*

*Frankly, I'd like to see the government get out of war altogether and leave the whole field to private industry. Major Milo Minderbinder in Joseph Heller's novel Catch-22*

In 1995, after four years of fighting, the war in Yugoslavia entered a new and far more deadly phase. The new states of Croatia and Bosnia-Herzegovina had broken away from Yugoslavia in the wake of the ending of the Cold War and the break up of the Soviet empire. Serb minorities within each state were fighting to rejoin the former Yugoslavia now ruled by Slobodan Milosevic's nationalist Serb party. The new militia's of the Croat and Bosnian governments – considered to be amateurs at best - were fighting the Serb minorities who increasingly were controlling more and more territory and were being supported by the professional Yugoslav army. In the face of inaction by the international community, it is estimated that the Serb nationals engaged in “ethnic cleansing” and more than 200,000 people died and another 3,000,000 became refugees. By 1995, in light of the superior weaponry and training of the Serbs, a rough ceasefire was brokered in Croatia. In Bosnia, however, the fighting raged on. But then something totally unexpected occurred. In the spring of 1995 the Croats launched a surprise attack called “Operation Storm” against the Serb-held Krajina enclave. The formerly disorganized and amateurish Croat army had been transformed into a Western-style army. The offensive action of the Croat militia was considered by observers to be based upon a classic NATO war college strategy. [Singer, 2003] The Serbs, who had thus far not encountered much opposition, were said to be stunned by the Croat's new cohesion and effectiveness. Along with the renewal of NATO air strikes, within weeks of “Operation Storm” the Serbs were forced back to the negotiating table and the war in both Croatia and Bosnia was over. The Croats were able to reshape the balance of power in the Balkans with the assistance of a private military firm, Military Professional Resources Incorporated (MPRI), founded in 1987 by retired U.S. Army General Vernon Lewis and based in Alexandria Virginia. MPRI had been contracted to provide for military education and training of both staff officers and non-commissioned officers in the Croatian Armed Forces (Hrvatska Vojska, HV). Retired American Major General Richard Griffiths, who from 1988 to 1992 commanded the U. S. Army in Europe, headed a fifteen-man team. MPRI provided fourteen weeks of training using materials from translated textbooks identical to those used at US professional military educational

institutions such as West Point. Aside from the military training, it has been speculated that MPRI also advised the Croatians on procurement and weapon acquisitions. It has further been speculated that MPRI provided the Croatians with logistical support and even accompanied them in the field. In the wake of the success of Operation Storm, the Croatian Armed Forces engaged in an ethnic cleansing campaign themselves. Although MPRI expressed regret at these incidents, they did not suspend their training efforts. [Avant, 2005: 101-102, 106]

When the United States Army defeated the Iraqi Army in 2003, it is estimated that one out of every ten people on the ground were employees of private military firms. This is in contrast to the first Gulf War where the ratio was 1 out of every 50. They engage in functions (ranging from: logistics<sup>1</sup> such as building camps and maintaining barracks, cooking food and washing laundry to maintaining vehicles and ammunition stockpile; operational support of weapons systems such as the U.S. Army's Patriot missile system and the U.S. Navy's Aegis missile-defence system and M1A1 Abrams tanks as well as virtually all the unmanned aerial vehicles used by the military and the CIA; operational support of advanced aircraft including the F-117 and B-2 bombers and Apache helicopters; the protection of bases; training soldiers as a result of the privatization of the ROTC; training and equipping local militaries; and, guarding and interrogating prisoners) which formally were done by military personnel. With the fall of the Iraqi government an "army" of private security personnel was deployed into the war zone. They were hired by the Coalition Provisional Authority (CPA) to train the new Iraqi police force, the Iraqi army, and a special force to guard government facilities and oil fields. They also provided security and protection for CPA personnel. They worked for the US Army interrogating prisoners at the Abu Ghraib prison. They provided security for those rebuilding the oil fields, for foreign media correspondents and the large number of international non-governmental organizations working in Iraq. It has been estimated that by the spring of 2004 upwards of 20,000 private security personnel working for 60 different companies were in Iraq. [Avant, 2005] The role of private military firms (PMFs) in the occupation of Iraq was thrust into the public's attention in light of a series of events which received much media attention. First, four private security personnel working for the U.S. private security company Blackwater<sup>2</sup> were killed and mutilated in Fallujah March 2004 and their bodies hanged from what is now called Blackwater Bridge [Duffy, 2004] Secondly, contracted interrogators working for CACI and the PMF Titan were among those implicated in the abuses at Abu Ghraib prison. Thirdly, in April 2004 eight Blackwater employees fought off for 23 hours a major insurgent assault when well-armed insurgents comprising the militia of the radical Shiite cleric Moqtada Sadr attempted to storm the local Coalition Provisional Authority offices in Najaf. Blackwater pilots flew in ammunition and evacuated the wounded without any U.S. military support. [Kahn & Schwartz, 2004] It is estimated that there has been 240 deaths and 900 wounded out of the 20,000 private security contractors in Iraq. [Washington Post, 23 April 2005, p. A01] It is difficult to obtain precise figures as the Pentagon does not track non-military casualties.

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<sup>1</sup> It may be underappreciated just how important logistics is to military fortune. Official U.S. military doctrine states: "Since the dawn of military history, logistical capabilities have controlled the size, scope, pace, and effectiveness of military operations....Logistical capabilities must be designed to survive and operate under attack; that is, they must be designed for combat effectiveness, not peacetime efficiency." General Omar Bradley once said: "Amateurs talk about strategy; professionals talk about logistics." [both quotes are taken from Singer, 2004]

<sup>2</sup> Blackwater was founded in 1996 by former U.S. Navy SEAL Gary Jackson and took its name from the covert missions undertaken by divers at night. The company has trained more than 50,000 military and law-enforcement personnel at its 6,000 acre facility. It is said that its training is so advanced that some of the U.S. military's active-duty special-ops troops have trained there. Between 2002 and 2004 it has won more than \$35 million in government contracts. [Duffy, 2004]

The above two examples are simply illustrative of the changing nature of war in the modern era. A transnational market for force exists alongside the system of state force. In what might truly be considered an example of 'old wine in new bottles' the nature of warfare is gradually becoming more and more privatized, such that this phenomenon is often referred to as the 'outsourcing of war'. [For usage of this term see, for example Coker, 2001, Fredland, 2004, or Shearer 1998 and 2005 who use the phrase in the title of their respective articles] Increasingly we are witnessing the privatization of military force in a manner which is reminiscent of earlier historical periods when mercenaries and privatized forms of violence prevailed. PMFs are businesses that provide governments as well as international governmental organizations, private sector firms and NGOs with professional services intricately related to security and warfare. They represent the corporate evolution of the age-old profession of mercenarism. They are a reflection of the changing nature of warfare at the end of the twentieth and the beginning of the twenty-first centuries. For example, in the past decade the U.S. Pentagon has entered into an estimated 3,000 contracts with PMFs. While there is much discussion, and a growing literature, on the growth of private military firms much of it to date has been descriptive and little of it has engaged in a critical analysis of the phenomenon. In particular, there is little discussion of what this means for the traditional understanding of the role the state as having a Weberian 'monopoly on violence'. Further, the increasing marketization and outsourcing of war suggests the need for an emerging debate over the distinction between "public" and "private" when it comes to the legitimization of force and violence. This paper sets out to a framework for theorizing the impact of outsourcing war on state theory. To do so, the paper is divided into a number of sections. First, it provides an historical look at the nature of war before the rise of the modern nation state. Secondly, it looks at the 'statization of war' to account for the movement from privatized violence to public violence. Thirdly, it provides a look at current events to illustrate the swing of the pendulum back towards increased privatized violence. Finally, it employs some of the insights of New Public Management (NPM) organizational theory to explain the rationale for outsourcing war. Through all of this, the paper provides an admittedly brief investigation into how private military firms are increasingly a part of the makeup of modern warfare and as such a rapidly growing component of modern national military establishments.

### **The Privatization of War**

Sociologists and historians from Max Weber [Gerth & Mills, 1946], to Charles Tilly [1975, 1990], to Anthony Giddens [1987] and to Michael Mann [1988, 1993], amongst a host of others, have spoken of the role of the capacity to mobilize the resources to engage in warfare as one of the defining features of the modern nation state. For those who trace the emergence of the modern nation state in the historical transition from feudalism to absolutism to modernism in Europe, the capacity to occupy an increasingly clearly defined physical space over which a centralized authority could claim sole legitimate authority entailed a control over the means and management of coercion and violence as a method for administering the emerging spatially defined political organizations which we now refer to as 'nation states'. But this was not always the case. Scholars seem in agreement that the constraints of feudalism provided a major inducement in the turn to the usage of mercenaries by monarchs as an instrument for fighting conflicts and wars.. The old feudal military system was based on the principle of defence. Knights were duty bound to serve only a very limited amount of time (estimated to be around forty days a year) and were not obligated to serve abroad. Thus, feudal military rights and obligations were often seen as a barrier to launching offensive military campaigns. In the twelfth century, English kings introduced a system of 'scutage' which allowed individuals to buy their way out

of military obligations. This had the effect of providing the sovereign with the fiscal capability necessary to purchase manpower. Thomson concludes that "...the European market for mercenaries was largely the creation of war-makers seeking to escape the constraints of feudal military obligations. War-makers increasingly relied on private or royal subcontractors to raise and supply armies for a profit." [1994: 27]

Military historian van Creveld [1999: 155-156] argues that during the Middle Ages war was the vocation of the upper classes who waged it not on behalf of non-existent states, but for their own interests. van Creveld uses the 1648 Treaty of Westphalia, which ended the Thirty years war, as a transition point from feudal hosts to mercenary forces which would in time eventually lead to regular state-owned armies and navies. For some, the Treaty of Westphalia is also a transition point in the modern understanding of 'sovereignty' which infuses our understanding of the definition of the modern nation state. Although the principles behind the emergence of the sovereign states had begun prior to 1648, this date is often taken as the point of differentiation between medieval Europe and modern Europe. In medieval Europe, sovereigns were not truly autonomous or sovereign. In fact, they often were under the authority of others – in particular the Holy Roman Emperor, the Papacy and the Church of Rome. Interference in 'domestic' politics was common place – especially in efforts to convert the rulers or the people to one or another religion or to interfere in and try to influence the outcomes of the lines of succession. The Treaty of Westphalia had the effect of establishing the constitutional and legal status of states as territorial entities where the sovereign state was free to determine its own domestic affairs and be free from the interference of outside external actors. "[T]he year 1648 thus marked the beginning of the supremacy of the state as a sovereign, territorial actor...." [Sens & Stoett, 2005: 48] By refusing to recognize the secular authority of the Roman Catholic Church, the system of papal governance in the Middle Ages was replaced with geographically and politically separate states that recognized no superior authority. Kegley and Wittkopf [2004: 63] suggest that under the Westphalian system, the newly independent states were all given the same legal rights: territory under their sole control, unrestricted control of their domestic affairs, and the freedom to conduct foreign relations and negotiate treaties with other states with the recourse to force. [See also Krieger, 2005] Giddens [1995] argues that the ultimate symbol of sovereignty was control over the means of internal and external violence through the raising, maintenance and use of military force. Sovereignty included a transition from societies built upon multiple sites and sources of power and governance to societies based upon a single legitimating structure.

Feudalism is often represented as a pyramidal social formation built upon personal ties of fealty in which the wielders of power at any level depended upon their capacity to mobilise the resources (including armed force) controlled by many lesser power-holders. In such a model, power was not unified in the monarch but diversified among a hierarchy of lesser nobilities. It was also an order in which separate powers and jurisdiction applied to those in religious orders. An important part of the coming of the modern state was the move towards a single (absolutist) centre of power ruling over an undivided social order. [Pierson, 1996: 11]

Although the transition from feudalism to absolutism marked an important turning point in the transformation of war, hiring others to fight your battles is probably as old as warfare itself. The

private provision of violence, historically, is more the rule than the exception in world history. As Singer notes:

Non-state violence dominated the international system in the past and was very much marketized. Indeed, when one takes a broad view of history, the 'state' itself is a rather new unit of governance, appearing only in the last four hundred years. Moreover, it drew from the private violence market to build its public power. [2003: 19-20]

Records of early warfare note the use of outsiders – mercenaries – being employed by ancient rulers. Singer [2003: 20] suggests that the first official historical record to cite the use of mercenaries is to those soldiers who served in the army of King Shulgi of Ur (2094-2047 B.C.E.) Ancient Empires (from the Egyptian to the Roman to the Chinese) to the Greek city-states were highly reliant on mercenaries and soldiers for hire. But ultimately, it was in the Middle Ages, especially during the era of the Italian city-states, that the large scale practice of hiring salaried mercenaries proliferated. Not solely restricted to the Italian city-states, mercenaries for example comprised about 50% of William the Conqueror's army in the eleventh century. In the medieval period, violence was almost entirely privatized and marketized. Indeed, non-state violence through its private and marketized provision was a routine aspect of the period. [Thomson, 1994] According to Zarate [1998] rulers found these arrangements advantageous because they got trained professionals which meant that they did not have to disrupt their economy by forcing otherwise productive citizens into military service.

By the thirteenth century in parts of Europe a system of urban-based commercial economies emerged via the growth of banking and trading companies. Several Italian towns turned themselves over to private investors to run. It was in this context that the *condotta* (contract) system emerged. The *condottieri* (literally military contractors) offered their services to the highest bidder. [Mallet, 1974] A contract was drawn up by legal experts between a client (a city state or a prince) and a *condottieri* which usually included such details as the level of remuneration, the number of troops to be provided, the length of time they were to be deployed and their duties. In South Germany and Austria this practice took the form of the *landsknecht* system in which the equivalent of the *condotta* was the *Kapitulation* which included an agreement on the terms of employment and payment. [Münkler, 2005: 52] Military services were contracted out to private armies by business guilds. Avant [2004] suggests that the rise of contracted forces was due to the inability of the feudal system to address the increasingly complex needs of a modernizing society to protect the trade routes of merchants. Fighting wars, maintaining order and collecting taxes were among the tasks filled by these military enterprises.

Land warfare was not the only means by which the privatization of conflict was practiced. Privateers on the high seas had legal standing in international law and were widely used by nations throughout the period from the sixteenth century to the nineteenth century to bolster their maritime forces. In international law, privateers were defined as "...vessels belonging to private owners, and sailing under a commission of war empowering the person to whom it was granted to carry on all forms of hostility which are permissible at sea by the usages of war". [Thomson, 1995: 22] Privateers were granted their right to wage war through the issue of 'letters of marque and reprisal'. These documents provided the legal basis for the use of privateers in war, but they also empowered private individuals to seek redress during times of peace. Privateers were usually required to post a bond to ensure their compliance with the government's instructions and their commissions were subject to

inspection by public warships. As an example of the importance of privateers, England effectively countered Spanish naval superiority in the sixteenth and seventeenth centuries through their extensive use. Popularly known as 'Elizabethan sea dogs', privateers such as Drake and Raleigh plundered Spanish ships and extorted large sums of ransom from settlements in Spanish America. In 1544 Henry VIII had given blanket authorization for privateering and by 1708 the British Prize Act allowed the privateer to retain all his prizes as well as be paid a bounty on the number of prisoners taken. Moreover, in 1744 the British monarch granted pardons to all criminals who would serve as privateers. Privateering played a significant role in the War of Spanish Succession (1701-1713), the War of the Austrian Succession (1739-1748), The Seven Year's War (1756-1763), the American War of Independence (1778-1782) and even during the War of 1812 and the American Civil War. [Thomson, 1994: 23-26]

Alongside the use of mercenaries and privateering, another form of private military organizations existed during this historical time period. Merchant or mercantile organizations, such as the Dutch East India Company (United Netherlands Chartered East India Company), the English East India Company (The Governor and Company of Merchants of London Trading to the East Indies), the Hudson's Bay Company (The Governor and Company of Merchants of London Trading into Hudson's Bay) or the Dutch West India Company, were businesses created in the sixteenth and seventeenth centuries with extraordinary powers to explore, exploit and engage in trade in a given region. As well, they were given the authority and power to establish colonies. Mercantile companies were granted full sovereign powers. These companies were given a monopoly in a region by a chartering government that granted them broad powers to raise military army or naval forces, build forts, negotiate treaties and if necessary conduct war, and coin their own money. As an example of the capacity of these organizations to monopolize vast geographic spaces, almost all of India south and west of the Punjab was ruled and controlled in the nineteenth century by the British East India Company. The East India Company boasted an army of 150,000 soldiers. While military power was largely granted primarily for defensive purposes against pirates or other European powers, the Dutch West India Company was established solely for the purpose of waging war on Spain in its American Empire.

By the seventeenth century, the conduct of violence was a capitalist enterprise. Mercantile companies were state-created institutions that used violence and coercion in the pursuit of economic gain. They also had the effect of establishing political power for both state and non-state actors. They provided a cost effective mechanism for state rulers to conquer or colonize large areas of the globe. Along with mercenaries and privateers, mercantile companies marketized coercion. As a result the line between state and non-state realms of authority was blurred. The privatization of violence also tended to produce unintended consequences. Privateering often led to piracy. Mercenaries were often uncontrollable and seen as a threat to sovereign powers. [Niccolo Machiavelli in *The Prince*, originally published in 1513, had recommended the dismantling of the condottiere system so as to bring military affairs under political control.] And, mercantile companies dragged their home states into unwanted wars. This reflected the state's inability to exercise effective control over those it had authorized to use violence beyond its borders. It also meant that states did not possess anything approaching a monopoly on force or violence.

### **The 'Statization' of War**

The practice of hiring large private armies flourished throughout the seventeenth and eighteenth centuries<sup>3</sup> but the widespread use of mercenaries, largely but not entirely, went out of style during the nineteenth century. Nation states altered the nature of warfare by raising civilian armies and eschewing the use of mercenaries. “European countries passed neutrality laws that included provisions forbidding citizens from enlisting in the armies of other states. Nations assumed exclusive authority to deploy force abroad and accepted responsibility for violence perpetrated by their citizens.” [Fredland, 2004: 207] Conventional wisdom has it that it was the Napoleonic Wars which initiated the process which separated the wars of kings from the wars of people. Citizen armies started to replace mercenary armies after the French Revolution which combined notions of nationalism with universal conscription. During this period an unwritten belief emerged that mercenary service was both immoral and improper. [Adams, 1999]

The movement towards the ‘statization of war’ occurred with the growth of the modern state system and as the concept of sovereignty spread. It also built on the emergence of the tax state and the expense of the technologies of warfare. While the use of private military organizations had been useful for states, several forces converged to contribute to their decline. For example, the increased use of more technologically advanced or sophisticated weaponry was said to require full-time professionals who were well trained. Münkler [2005] argues that to become the sole master of war, the state had first to become the full master of its military force. A series of technological inventions in lighter weaponry and tactical revolutions in warfare enabled highly disciplined bodies of troops to begin to master battlefields. Central to this was the construction of a military apparatus capable of conducting war. Whereas mercenaries were subject to high levels of desertion, the inculcation of discipline and tightly drilled troops subject to rigid duties and regulations became much more the norm. The introduction of continuous and systematic drill and exercise, which is credited to both Gustav Adolphus of Sweden and Prince William of Orange, meant that troops were occupied in periods when there was no open warfare. Mercenary armies had turned out to be unreliable and once they were disbanded they would often find less acceptable ways of making a living. As well, the cost of disbandment and re-enlistment was often prohibitive. [Kaldor, 1999: 16] The establishment of permanent troops kept in garrison towns became a mechanism for securing the control of armed state forces. This was visibly declared by the wearing of national uniforms – the ‘king’s dress’ – supplied by the state.

The new type of military organization which emerged with the ‘statization of war’<sup>4</sup> was illustrative of the emerging administrative arrangements associated with modernity. Indeed, one could make a strong argument that the state soldier was an example of Weber’s rational-legal authority. As Weber himself wrote:

The modern military officer is a type of appointed official who is clearly marked out by certain class distinctions./.../In this respect, such officers differ radically from elected military leaders; from charismatic condottieri; from the type of officers who recruit and lead mercenary armies as a capitalistic enterprise; and finally from the incumbents of

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<sup>3</sup> The United Kingdom, for example, hired 30,000 Hessian soldiers to fight in the American War of Independence, largely to avoid conscripting its own citizens. In the late eighteenth century, foreigners comprised half of the armed forces of Prussia and almost a third of the French and British armies.

<sup>4</sup> This is a term employed by Münkler 2005, chapter 3.



commissions which have been purchased. There may be gradual transitions between these types. The patrimonial 'retainer' who is separated from the means of carrying out this function and the proprietor of a mercenary army for capitalistic purposes, have along with the private capitalistic entrepreneur, become pioneers of the modern type of bureaucracy. [Weber, 1947: 326]

The establishment of standing armies under the control of the state was an integral part of the monopolization of legitimate violence which is intrinsic to the modern state. It suggests that with the emergence of regular troops, the state was able to draw a clear distinction between the permissible violence of acts of war and criminal violence. [Münkler, 2005: 40] State interests became the legitimate justification for war. Once this became the dominant legitimating reason for war, the claims of 'just cause' by non-state actors could no longer be pursued through violent means. [Kaldor 1999] In this vein, rules developed about what constituted legitimate warfare which came to be codified in the laws of war. Warfare characterized by rules suggested that war was a socially sanctioned activity that was organized and justified. In the Middle Ages, the rules of warfare were derived from papal authority. Under the modern state, warfare was based upon a set of secular rules.

To distinguish war from mere crime it was defined as something waged by sovereign states and by them alone. Soldiers were defined as personnel licensed to engage in armed violence on behalf of the state. To obtain and maintain their license, soldiers had to be carefully registered, marked and controlled by the exclusion of privateering. They were supposed to fight only when in uniform, carrying their arms 'openly' and obeying a commander who could be held responsible for their actions. [van Creveld, 1991: 41]

State bureaucracies had developed to a degree where it was possible to recruit, train, pay and maintain a full-time force. Heavy artillery had been the most cost-intensive equipment for early modern armies. And, the ability to produce and maintain cannons was seen as a measure of a state's fiscal capacity. The capacity of the modern territorial state to fund its armies was derived from the regularization of tax revenue. "The state developed into a fiscal state, and the transition from occasional enlistment of fighting men to the establishment of a standing army went hand in hand with the transition from ad hoc taxation to a system designed to bring in a regular revenue." [Münkler, 2005] Regardless of whether the taxes were levied by the king, on his own or voted to him by a legislative assembly, the income available to the state increased substantially. [See Mann, 1986: 451-458 and van Creveld, 1999] State-building, and the bureaucratic capacities which accompany it, has been partially driven by the state's desire to maximize revenues. [Levi, 1988; Webber & Wildavsky, 1986]

The 'statization of war' saw military services within the public realm under the control of the public sector. Samuel Huntington spoke of the necessity of the professionalization of war making within the public realm when he wrote: "Society has a direct, continuing, and general interest in the

employment of this skill for the enhancement of its own military security. While all professions are to some extent regulated by the state, the military profession is monopolized by the state.” [1957]

## **Current Trends**

Although the historic trends were towards the increasing ‘statization’ of violence and war, the mercenary profession did not entirely disappear. In other words the state did not maintain an outright monopoly of war and violence. The nature of the practice became much more internationalized through the use of ‘soldiers of fortune’ and ‘dogs of war’ often associated with weak or corrupt or underdeveloped third world nations, especially during the period of decolonization in the 1950s and 1960s. Contemporary forms of mercenarism take a number of different forms. Foreigners may be permanently employed and therefore constituting a portion of a state’s standing army. This may occur in two ways: first a foreigner joins an army as an individual with their home state’s compliance as in, for example, the case of the French Foreign Legion which is a standing army composed of multiple nationalities who are loyal only to their employer; or secondly, they may be recruited under an interstate treaty or contract such as the Gurkhas who have served in both the Indian and the British armies under the terms of the Kathmandu Agreement of 1947. Another version of contemporary mercenarism may be individual foreigners hired directly by a state for use in a particular conflict such as the United States did during the Vietnam War when in 1962 Green Berets went into the southern highlands to train and organize the Montagnards who were mountain people ethnically diverse from the Vietnamese. [Johnson, 2004: 131] Finally there is the example of the 3500, mostly European, foreigners who volunteered to be a part of the International Brigades fighting Franco in the Spanish Civil War in the 1930s. They fought for a foreign military force and were paid for it, but the republican volunteers were largely motivated by political ideals rather than monetary gain.

Despite the fact that mercenaries did not entirely disappear in the twentieth century, they were by and large marginalized. It is really with the ending of the Cold War that we witness a massive resurgence of private military organizations. While states have used merchant marines during times of war, and relied upon the production of the weapons of warfare by the private sector – Eisenhower’s military-industrial complex<sup>5</sup> - as a form of military Keynesianism which saw substantial governmental expenditures on munitions and war preparedness, most fighting was by the nation state and hence considered a public affair. The ending of the Cold War bipolar confrontation had a massive effect on the nature of warfare and state monopolized violence. In fact, Singer has written that : “[i]n the wake of globalization and the end of the Cold War, the private military market has expanded in a way not seen since the 1700s.” [2003: 40] Shunning the term ‘mercenary’, the organizations responsible for the challenge to the public monopoly of violence and coercion practised by the military profession have instead come to known as ‘Private Military Firms’ (PMFs). They are business organizations who trade in professionalized services. They are corporate entities who specialize in the provision of functions that had long been seen as the traditional responsibilities of the state: combat operations, strategic planning, intelligence, risk assessment, operational and logistic support, training and technical skills. “PMFs are private business entities that deliver to consumers a wide spectrum of military and

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<sup>5</sup> In 1961 as part of his presidential farewell address Eisenhower stated: “In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination engender our liberties or democratic process. We should take nothing for granted.” [Quoted in Johnson, 2003: 53]

security services, once generally assumed to be exclusively inside the public context.” [Singer, 2003: 8] It is estimated that PMFs are a \$100 billion-a-year industry and one of the fastest growing sectors in the global economy. It is projected that their revenues will rise to \$202 billion by 2010. PMFs with publicly traded stocks grew at twice the rate of the Dow Jones Industrial Average in the 1990s. Between 1994 and 2002, U.S.-based PMFs received more than 3,000 contracts worth over \$300 billion from the U.S. Department of Defence. [Avant, 2005: 8] One observer of this sector has estimated that there are several hundred companies globally operating in over one hundred countries on six continents. [Singer, 2003a: 60] PMFs enjoyed a 50 percent run-up in stock prices after September 11 and are now part of many 401k plans. [Wirtz, 2004: 534] These are large entities – DynCorp has 23,000 employees and MPRI has 700 full-time staff members with another 10,000 retired military personnel on call. [Johnson, 2004: 141] The industry itself is large enough to have its own trade group, the International Peace Operations Association. A name worthy of Orwell!

An overall new pattern is emerging with a growing reliance on military services supplied not just by public institutions but also by the private market. The growth of a privatized military industry represents the new business face of warfare. The ending of the cold war affected both the demand and the supply side in the market for military services. There was a major shift in the labour market for personnel. The private military labour pool increased substantially throwing many ex-soldiers onto the open market because of the downsizing of state forces.

The half-century of the Cold War was a historic period of hypermilitarization. The end of it sparked a global chain of downsizing, with state militaries now employing roughly 7 million fewer soldiers than they did in 1989. The cuts were particularly strong in the former Communist Bloc, as the Soviet state and many of its clients’ forces essentially disappeared. Most of the Western powers have also drastically reduced the sizes of their military establishments. The U.S. military has one third fewer soldiers than at its Cold War peak, while the British Army is as numerically small as it has been in almost two centuries<sup>6</sup>. The end of the apartheid regime in South Africa and concurrent reforms in neighbouring states also resulted in similar changes in their military structures. [Singer, 2003: 53]

The massive demobilization produced an oversupply of dislocated military personnel who largely were fairly well skilled. Since the end of the Cold War, the U.S. military has shrunk from 2.1 million in 1989 to 1.4 million in 2004. Since 1991, the U.S. Army has cut its size by 32%, as has the Navy and Air Force. The U.S. Marine Corps has only declined by 10%. Complete units were cashed out and some of them went on to form private companies based on their former structures and cohesiveness based on a common training background, a common military culture and sometimes extensive counterinsurgency experience. [Smith, 2003: 108] With the shrinking of state militaries also came fewer opportunities for advancement and promotion within the ranks. The downsizing of professional careerist soldiers also provided a pool of very highly skilled military personnel who also went on to form private military and security firms. This is especially said to be true for ex-soldiers from the apartheid era South African Special Forces (who went on to form Executive Outcomes) and

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<sup>6</sup> Indeed, the British Army is at its smallest since the Napoleonic wars.

former KGB agents<sup>7</sup>. MPRI, based in Virginia, is made up of ex-U.S. retired senior officers and non-commissioned military personnel. [Adams, 1999] The cutbacks in military organizations also affected back-end support areas. Cohen notes that the American military presence in Europe shrank to roughly a third of its late-Cold War size – down to approximately 100,000 troops. [2000: 40] Private contractors are supposed to be cheaper, but their cost effectiveness has thus far not been proved. In fact, the wages offered by PMFs have had a significant impact on soldiering. Indeed, it may be the large wages which attract soldiers to private sector employers. Salaries may be as much as double or triple military pay. Competition over elite troops (Navy SEALs, Army Special Forces and Rangers or Delta Force Commandos) became so intense that the U.S. Special Operations Command formulated new pay, benefits and educational incentives to retain their members. (Scott, 2004) Outsourcing military capability also speaks to the increased use of a flexible labour market so often commonly associated with the post-fordist economy. Economists speak of this in terms of ‘surge capacity’ – not all goods and services are required in equal quantities on a regular basis. Contracting out for these rather than continually keeping employees on the payroll is therefore seen as a solution to this problem. For example, in 1996 under the terms of the British Reserve Forces Act, the privatization of key military services, including the Royal Navy’s Mobile Aircraft Support Unit, the army’s tank transporter unit, and the RAF’s air-to-tanker refuelling fleet, services will be performed by civilians labelled ‘sponsored reserves’ who are to be called up only in the event of hostilities. Although there was no mention of ‘special reservists’ being used as combat troops, it is noted that the tender documents explicitly state that they must be prepared to act in the front line of the military operational theatres, suggesting that the exigencies of war can never be anticipated. [Sheppard, 1999: 2-3]

Military downsizing not only meant the large scale availability of trained military personnel, but also tools and weapons. The downsizing of military forces across the globe in the 1990s saw surplus military equipment being dumped on to the open market. Machine guns, tanks and even jet fighters became available on the open market. The most common, and often the cheapest weapons, were ex-Soviet equipment often sold directly by Russia or dumped onto the open market by satellite states. The newly unified Germany after 1990 sold the entire former East German Army’s equipment at cut-rate prices. The result of actions such as this is that many PMFs have been able to acquire fairly sophisticated weapons systems, including fighter aircraft (for example, Russian MiG-23 and MiG-27 fighter jets, Mi-17 and Mi-24 transport and attack helicopters, and the huge Antonov An-24 military transport planes) and advanced artillery. After 1989 millions of light weapons (including rifles, machine guns, light mortars, and land mines) were declared surplus and also dumped on to the world market. While states were dumping their surplus, manufacturing continued such that PMFs can turn to the world’s arms market to build their own force capabilities fairly inexpensively. Both sophisticated weapons systems and inexpensive small arms are increasingly available on the private market.

## Theory

The role of the nation state in violence and public militaries is not disappearing entirely. But, the growth of PMFs may be indicative of a sense that the state’s hold over violence is no longer as

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<sup>7</sup> These are only two troubling examples of who works for PMFs. In 2004 the New York Times reported that Blackwater was training former Chilean commandos, some of whom served under the dictatorship of Augusto Pinochet, for service in Iraq. [Yeoman, 2004]

absolute as it once was. The state's role in the sphere of security has been broken down.<sup>8</sup> This is reflective of a larger shift in the understanding of the role of the state associated with neo-liberalism and new public management (NPM) where the role of the public sector and the state is 'deprivileged'. Albo et al [1993] have used the phrase 'not more state or less state but a different kind of state' to capture the essence of the restructuring process. The privatization revolution associated with Thatcher, Reagan and others provided the logic and the legitimacy for the large scale entrance of private markets into formerly public domains such that the public/private divide is increasingly being blurred. While the impact of neo-liberalism and NPM on the marketization of public services has often been most associated with privatization, outsourcing or public-private partnerships in such diverse policy fields as education, social services, health care and even prisons, I would suggest that this is now also true for aspects of one of the core functions most closely associated with the modern nation state: the military function<sup>9</sup>. Pierre (1995) has spoken of this process as the "marketization of the state" in which aspects of the public sector are gradually transforming from Weberian organizational structures into private sector-modelled organizations. In the United States, the impetus for state restructuring is often associated with the National Performance Review 'reinventing government' exercise launched by Al Gore and associated with David Osborne and Ted Gaebler (1992) to make government more business-like. In the 1990s there was also a very concerted effort to support the outsourcing of national security activities by the private sector. The Defence Science Board Task Force on Outsourcing and Privatization (1996) was heavily composed of a large number of defence contractors who recommended a strategy of privatization and outsourcing. It estimated that \$10 billion a year could be saved through privatization. At the same time, Business Executives for National Security (BENS), a group which began in 1982 to act as a watchdog on weapons costs, became an outspoken advocate for outsourcing. BENS had played a significant role in the Base Closing Commission process which saw the closing of unneeded military bases. BENS called for a 'revolution in military business' stating that the Department of Defence needed to do business more like the private sector. The Pentagon uses the language of core competency to distinguish between the functions appropriate for outsourcing and those that should be maintained. [Markusen, 2003: 486-488]

The use of alternative service delivery (ASD) is a concrete manifestation of a fundamental shift in public policy thinking. It is often presented as a more effective and efficient approach to the production and delivery of public goods and services. As Zussman [2002: 53] notes, ASD is the term used to describe the broad set of implementation tools for programme delivery to achieve NPM goals. He further notes that when we speak of ASD, we are speaking of a fundamental shift in the traditional role of governments. ASD can take many different forms: from contracting out to privatizing or deregulating to horizontal service delivery to electronic service delivery to public-private partnerships

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<sup>8</sup> This is also true for other forms of security beyond the military – especially local policing and the growth of gated communities and private security. See for example, Cukier & Thomlinson (2005), Gordon (1998) and Rigakos (2002). Brayton (2002: 318-319) draws a close connection between PMFs and local police services. He quotes James Woods a partner in the Washington D.C. defense consulting firm Cohen & Woods who observes: "If the international community cannot get its act together and help these countries keep themselves together and protect commerce and protect the citizenry, you're going to see more and more examples of private contractors going the job. It's the same in American cities were forces of law and order are losing control in certain neighborhoods. A lot of people are building walls around their compounds and hiring armed guards to protect them. Over time these enterprises could become stronger than the sovereign states that they are hired to protect."

<sup>9</sup> The wider impact of the philosophy of New Public Management can also be seen in the billing of wounded soldiers for hospital meals [see for example Jontz, 2003 and Benjamin, 2005] and equipment damaged during conflict. In other cases, troops are purchasing their own clothing and equipment. [Foot, 2006] In other words, we are witnessing the downloading of costs onto the end users.

(3P's). While ASD is presented by its advocates and defenders as a means to maintain and preserve the core functions of government – setting and regulating policy – the case study presented suggests that this traditional understanding needs perhaps to be broadened. ASD is also presented by its advocates and defenders, and neo-liberal proponents, as the outcome of 'state failure'; that is, the inability of the state to provide public goods and services. Ford and Zussman [1997] believe that ASD will actually contribute to public sector renewal by, amongst other things, creating better accountability arrangements and make better use of resource.

In terms of the belief that ASD mechanisms will enhance accountability, the evidence thus far when it comes to PMFs speaks to the opposite; and, in doing so, highlights one of the major criticisms of the impact of NPM and 3Ps. Because of loopholes in international law the employees of PMFs have largely been able to escape prosecution for crimes they have committed overseas. Most firm's activities fall outside the purview of the 1989 U.N. Convention on Mercenaries. Indeed the existing laws are aimed only at individuals working against national governments or politically recognized movements of national liberation. No international law specifically recognizes the existence of the corporate PMFs as legal entities. The status of PMFs under international law is ambiguous in that there is no regime to regulate them as extraterritorial legal enforcement is absent. And, in some U.N. contracts with PMFs, the contract obligates local governments to give legal immunity to contractors. In 1998, for example, 13 DynCorp security agents in Bosnia were implicated in a sex-slave scandal. The firm simply recalled its agents and none faced criminal prosecution. At the Abu Ghraib prison, of the 37 interrogators implicated in illegal activities 27 were employees of the Virginia-based private contractor CACI International. Another 22 linguists who assisted them were employed by California-based Titan International. Unlike the reservist guards who faced criminal trials or the military intelligence officers who were investigated for their actions, none of the private contractors faced any charges. As civilians they were not subject to either military law or to the Geneva Convention [Hurst, 2004] as legally they are not considered combatants.

Traditionally basic questions of responsible government and accountability state that government is accountable to the people and their legislative assemblies. Soldiers take oaths of allegiance. Private corporations are only accountable to the legality of the contract and to their shareholders. To some degree they are often shielded from public and government scrutiny. In the United States, the terms of the contracts and what services they provide to the Pentagon is considered "proprietary information". The Pentagon is not required to classify them and as private property, information of companies is exempt from the Freedom on Information Act. [Johnson, 2000: 85] Further, the use of PMFs to avoid governmental accountability is exacerbated by the fact that the executive branch can hire contractors and although Congress approves the military budget, its access to information about said contracts is limited. Some observers believe that the use of PMFs is a convenient way for the executive branch to avoid congressional oversight. [Smith, 2002/3] In the United States under the International Traffic in Arms Regulations law there is limited licensing of PMFs only in cases where their contracts involve arms transfers. Additionally, under current U.S. law, administered by the Department of State's Office of Defence Trade Controls, as long as the contract amount is under US\$50 million any U.S. military firm can work abroad without notifying Congress. Many contracts fall under this cap or larger ones are broken up to avoid the cap. Further, once a PMF receives a licence there is no specific follow-up oversight requirements. In 2003 Wired magazine suggested that the rationale for using PMFs in Iraq was less a need for technical expertise than a desire to conduct operations that the U.S. Congress would not let the military do: "Private contractors and

subcontractors operating abroad are subject to neither U.S. law nor the military code of conduct. They don't count under congressional limits on troop commitments and they aren't obliged to talk to the media...all of which raises troubling questions of accountability." [Quoted in Potter, 2003]

### **Conclusion:**

A basic assumption of both state theory and international relations theory is that the state possesses an effective monopoly on the use of coercion and violence. But it was only at the end of the nineteenth century that states achieved an 'effective' monopoly and that national armies of nation states became the norm. Sovereignty is not an absolute, invariable attribute of the state. State authority and control over international violence has not been as constant as, for example, realists or neo-realists would suggest. It took over 300 years for the nation state to achieve an 'effective' monopoly on external violence. The decline of non-state violence was an outcome of new forms of sovereignty solidified by the end of the nineteenth century reflecting the states' capacity to control non-state violence and the state's increasing responsibilities for its citizens' activities beyond its borders. [Thomson 1994] But, the post cold-war world has seen an increase in non-state violence. Does the privatization of security undermine state control of violence? The answer to this question is reflected in the fear that the state's institutionalized, monopolized and legitimized use of force is breaking down. The state's monopoly on force and violence may have been an historical anomaly. This suggests that we should no longer expect organized violence to be solely located in the public realm. PMFs do not represent a direct loss of power or a dispersal of sovereignty, but they do speak to a significant restructuring of the boundaries of one of the core functions most often associated with the modern nation state.

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