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978-0-521-12519-2 - States, Citizens and the Privatization of Security

Elke Krahmann

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1 Introduction

*We have this idealized vision of war as being men in uniform fighting for the political cause of their nation-state. That is actually an anomaly. It describes only the last 300 years.*¹ Peter W. Singer

Democratic control over the use of collective force for national and international security has been a problem since the rise of modern democracy in Europe and North America. By the twentieth century, however, the issue finally appeared to have been resolved. Public and parliamentary oversight of national armed forces comprising professional soldiers or citizen-soldiers promised to prevent the abuse of military power by both state and non-state actors. The controversy over the growing role of private military contractors in Western military has to be seen in this context.² Ranging from the outsourcing of essential military services for national defence to the proliferation of armed guards shooting at civilians in Afghanistan and Iraq, private contractors have become a new and seemingly unregulated force. Private military companies are the incorporated face of this development. In contrast to the *condottieri* of fourteenth-century Italy and the post-colonial mercenaries of the 1970s, modern private military contractors are registered businesses with headquarters, administrative staff, public relations officers and ISO 9001 certification. These businesses not only supply armed guards, but also technical services across the full spectrum of military and military support functions, such as weapons maintenance and operations, site guarding, training, education, risk analysis, intelligence, transport, supplies, logistics and base

¹ Cited in J. Dao, '“Outsourced” or “Mercenary,” He’s No Soldier’, *New York Times*, 25 April 2004.

² R. Mandel, *Armies without States: The Privatization of Security* (Boulder, CO: Lynne Rienner, 2002); P. W. Singer, *Corporate Warriors. The Rise of the Privatized Military Industry* (Ithaca, NY: Cornell University Press, 2003); D. D. Avant, *The Market for Force. The Consequences of Privatizing Security* (Cambridge: Cambridge University Press, 2005); C. Kinsey, *Corporate Soldiers and International Security. The Rise of Private Military Companies* (London: Routledge, 2006).

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management. The size of the contemporary private military industry is staggering. In particular, the United Kingdom (UK) and the United States (USA) have outsourced large sections of their national and international security provision to the private sector. By 1996 contractors in the employ of the US Department of Defense (DOD) supplied 25 per cent of base commercial activities, 28 per cent of depot maintenance and 70 per cent of army aviation training for the US armed forces.³ By 2008 this proportion had more than doubled in key sectors such as management, telecommunications, maintenance and repair.⁴ In the UK private military contractors not only conduct the majority of military training and maintenance, but also manage all navy ports and main army garrisons. Even in international military deployments, the scale of private sector involvement has increased massively since the end of the Cold War. While in the former Yugoslavia the ratio of military contractors to US armed forces personnel was one to fifty, in Iraq the DOD employed as many private military contractors as it had troops in the country.⁵

Of course, private armed forces in Europe and North America are not a new phenomenon. But the past 300 years have witnessed their progressive elimination due to the emergence of the state monopoly on the legitimate use of collective force, anti-mercenarism and democracy.⁶ According to these norms, the prohibition of the use of military force by private actors and democratic control over the military are essential for public security and international peace. Not by coincidence, the rise of the state monopoly on collective violence occurred simultaneously with the establishment of modern democracy and citizen armies. The centralization of control over collective force within the hands of democratically elected governments and the replacement of mercenaries with citizen-soldiers evolved as key mechanisms for preventing private and collective abuses of military power. The current privatization and outsourcing of military services challenges these mechanisms. It is not

³ DOD, *Improving the Combat Edge through Outsourcing* (Washington DC, March 1996), p. 8.

⁴ Government Accountability Office (GAO), *Defense Budget: Trends in Operation and Maintenance Costs and Support Services Contracting*, GAO-07-631 (Washington DC, May 2007), p. 3; DOD, *Agency Reports Fiscal Years 1997–2008*.

⁵ Congressional Budget Office (CBO), *Contractor's Support of U.S. Operations in Iraq* (Washington DC, August 2008), p. 1.

⁶ J. E. Thomson, *Mercenaries, Pirates, and Sovereigns. State-building and Extraterritorial Violence in Early Modern Europe* (Princeton, NJ: Princeton University Press, 1994), p. 27; D. Avant, 'From Mercenary to Citizen Armies: Explaining Change in the Practice of War', *International Organization*, 54, no. 1 (2000), 41–72; S. Percy, *Mercenaries: The History of a Norm in International Relations* (Oxford: Oxford University Press, 2007).

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simply a different way of providing security; it has serious implications for the democratic control of the use of armed force.

This book seeks to understand the reasons for and implications of the proliferation of private military force in Europe and North America. It does so from a distinct theoretical perspective, namely the Theory of the Social Contract and the Republican and Liberal models of democratic civil–military relations which have developed on its foundations. This perspective shows that the recent privatization and outsourcing of military force has not merely been driven by functional reasons such as the changing security environment, post-Cold War demands for peace dividends or advancements in military technology, but also has been shaped by ideological ideal models of the democratic state, the citizen and the soldier.⁷ Social Contract Theory served as the origin of these ideal models. It contended that the state monopoly on the legitimate use of violence is the condition for security and peace.⁸ The advent of modern democracy required that this monopoly had to be brought under the control of the citizens. How this can be best achieved has remained subject to wide contestation. In particular, two competing theories and their associated public ideologies have influenced this debate so far: Republicanism and Liberalism.⁹ Republicanism advocates the centralization of the provision of security within the state and national armed forces composed of conscripted citizen-soldiers. Liberalism, which in the following also includes Neoliberalism, suggests the fragmentation and limitation of governmental powers and the political neutrality of professional armed forces. This book demonstrates that Republicanism and Liberalism continue to shape our understanding of the ideal roles and relations of the state, society and the military.¹⁰

⁷ G. Arnold, *Mercenaries: The Scourge of the Third World* (Basingstoke: Macmillan, 1999), p. 173; Singer, *Corporate Warriors*, p. 67; C. Spearin, 'American Hegemony Incorporated: The Importance and Implications of Military Contractors in Iraq', *Contemporary Security Policy*, 24, no. 3 (2003), 28; A. R. Markusen, 'The Case against Privatizing National Security', *Governance*, 16, no. 4 (2003), 477–8; M. Edmonds, 'Defense Privatisation: From State Enterprise to Commercialism', *Cambridge Review of International Affairs*, 13, no. 1 (1999), 114–29; E. Fredland and A. Kendry, 'The Privatisation of Military Force: Economic Virtues, Vices and Government Responsibility', *Cambridge Review of International Affairs*, 13, no. 1 (1998), 147–64.

⁸ T. Hobbes, *Leviathan*, edited by R. Tuck (Cambridge: Cambridge University Press, 1991).

⁹ J.-J. Rousseau, *The Social Contract and Other Later Writings*, edited by V. Gourevitch (Cambridge: Cambridge University Press, 1997).

¹⁰ E. A. Cohen, *Citizens and Soldiers: The Dilemmas of Military Service* (Ithaca, NY: Cornell University Press, 1995); A. Carter, 'Liberalism and the Obligation to Military Service', *Political Studies*, 46, no. 1 (1998), 68–81; R. C. Snyder, 'The Citizen-Soldier Tradition and Gender Integration of the U.S. Military', *Armed Forces & Society*, 29, no. 2 (2003), 185–204.

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Moreover, they provide a suitable basis from which to assess the consequences of the contemporary privatization and outsourcing of military services. In particular, both reveal that the growing role of private military contractors transforms the formal and informal institutions and relations which have ensured democratic control of military force over the past centuries. In order to address the implications of this transformation and the new security demands arising from transnational threats, the book concludes by proposing a reform of Republican and Neoliberal models of civil–military control.

In order to illustrate the importance of Republicanism and Liberalism for the explanation and evaluation of the privatization of military force in Western democracies, the following chapters examine and compare the use of private military contractors in four cases: the UK, the USA, Germany and in international military interventions. These case studies have been selected for several reasons. Firstly, democratic control of the use of military force in the UK, the USA and Germany is particularly important because these countries have some of the largest and most sophisticated armed forces found in Western democracies. How these countries control their militaries has a considerable impact on national and international security. Secondly, all three countries have adopted very divergent attitudes and approaches towards the privatization of military services despite facing similar security challenges and demands. Therefore, they present a theoretical and empirical puzzle, not explained by purely functional arguments concerning the changing security environment. Thirdly, the use of private military contractors in international combat and peacekeeping operations, such as in Iraq, raises particular anxieties regarding democratic control over the legitimate use of military force in international relations. The reluctance of Western governments to deploy private military contractors in conflict zones has reflected these concerns. Even the UK military has proclaimed that it does not ‘normally’ envisage the involvement of civilian contractor staff in ‘non-benign environments’, although the praxis proves otherwise.¹¹

On the basis of a detailed historical and contemporary investigation of the ideological models of civil–military control in these three Western democracies, this book advances the understanding of private military forces in several ways. Foremost, it demonstrates that the inclusion of ideological factors offers a fuller understanding of how the growing role of private military forces has become possible. These

¹¹ Ministry of Defence (MOD), ‘Contractors on Deployed Operations (CONDO)’, at: www.aof.mod.uk.

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factors also help explain why the scale and form of military privatization has varied significantly among Western democracies. In addition, the book offers a theoretically guided assessment of the consequences of the proliferation of private military contractors for democratic control which not only includes the state, but also the citizens and their parliamentary representations. Finally, this book discusses how existing models of civil–military control might be adapted to the challenges posed by the changing security environment and the growing role of private military forces. In conclusion, this book demonstrates that the transition to private military forces is by no means a uniform, inevitable or functionally driven response to the changing national and international security landscape. It highlights instead the inherently political and ideological nature of the decision to contract out military services to private firms.

Before one can turn to these issues, however, the remainder of this chapter provides an introduction to the main concepts, empirical context and theoretical approach of this book. To do so, the first section examines the distinction between private military contractors and mercenaries. In short, what makes this industry a new phenomenon? The second section discusses the main reasons for the re-emergence of private military forces which have been identified in the literature. The third outlines how ideology offers a complementary explanation, and how it will serve as the theoretical framework for the analysis of the outsourcing and privatization of military services in this book. Nevertheless, the question remains why this development has occurred now. The fourth section answers this question by proposing that repeated ideological changes have occurred during the past three centuries. It identifies two key factors which have contributed to these shifts, namely new security demands and problems of civil–military control. The fifth section argues that the ideal models of democratic control and accountability also serve to assess the implications of the privatization of military services. Finally, the concluding section summarizes the structure of the book.

Private military contractors

Any analysis of the contemporary proliferation of private military contractors in Europe and North America has to begin with a clarification of the differences between contractors and mercenaries. What makes the modern private military industry a new and distinct phenomenon? Although the press all too often conflates private military firms with mercenaries, there are a number of features which differentiate the

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two. Foremost among these features is the corporate nature of private military companies and their resulting legal status, while mercenaries operate outside the law. The First Additional Protocol to the Geneva Conventions defines mercenaries on the basis of six cumulative characteristics: (1) they are specially recruited locally or abroad in order to fight in an armed conflict; (2) they take a direct part in the hostilities; (3) they are motivated to take part in the hostilities essentially by the desire for private gain and are promised, by or on behalf of a party of the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that party; (4) they are neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (5) they are not a member of the armed forces of a party to the conflict; and (6) they have not been sent by a state which is not a party to the conflict on official duty as a member of its armed forces.¹² In addition, mercenary forces are, typically, composed on an ad hoc basis and for illicit purposes. They are volatile, dangerous and little concerned with their long-term reputation and compliance with national and international laws.¹³ The norm against mercenaries and various efforts to outlaw them, including the Organization of African Union Convention for the Elimination of Mercenarism and the United Nations (UN) International Convention against the Recruitment, Use, Financing and Training of Mercenaries and their exclusion from the safeguards of the Geneva Convention, are responses to the lack of control over mercenaries and the resulting threat to international peace and stability.¹⁴ However, the difficulty of prosecuting mercenaries based on a definition which requires simultaneous evidence for all seven criteria, including the personal motivation of the accused, has not only undermined the widespread endorsement of the UN convention, but also its practical implementation since its coming into force in 2001.

¹² Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Art. 47, in: *The Geneva Conventions and their Additional Protocols*, at: www.icrc.org.

¹³ Percy, *Mercenaries*; Arnold, *Mercenaries*; J. Cilliers and P. Mason (eds.), *Peace, Profit or Plunder? The Privatisation of Security in War-torn African Societies* (Pretoria: Institute for Security Studies, 1999).

¹⁴ African Union, *Convention on the Elimination of Mercenaries in Africa*, CM/817, Annex II, Rev. I (1977); United Nations General Assembly, *International Convention against the Recruitment, Use, Financing and Training of Mercenaries*, A/RES/44/34, 72nd Plenary Meeting, 4 December 1989. For a detailed analysis of the norm against mercenarism see Percy, *Mercenaries*.

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By contrast, private military companies are legal businesses with permanent structures, headquarters and management. Although there are still some gaps in the regulation of the industry, private military firms are subject to corporate and contractual law, sector regulations, and national and international legislation in Europe and North America.¹⁵ It is specifically the incorporation of these businesses that has facilitated compliance with public laws and regulations through the assignment of corporate responsibility to private owners or executive boards. The immunity from local criminal prosecution granted to contractor personnel in Iraq has thus not precluded their companies from being charged with fraud or criminal negligence in the USA. High-profile cases have been the corruption charges filed against Custer Battles, the prosecution of Blackwater for negligence by the families of contractors who were killed in Fallujah and the compensation claims made by the relatives of three out of seventeen civilians who were shot by Blackwater employees in September 2007.¹⁶ The effects of business reputation on the share values of firms floated on the stock market, such as L-3 Communications, CSC, CACI and ArmorGroup, also influence the behaviour and considerations of private military contractors. ArmorGroup, for instance, makes a notable effort to distance itself from the mercenary image of the industry by emphasizing regulation and ethical standards, including the Code of Conduct of the International Red Cross and Red Crescent, the US/UK Governments' Voluntary Principles on Security and Human Rights, and its proactive contribution to industry self-regulation.¹⁷ Other companies have suffered the consequences of reputation loss, such as CACI whose share value declined by up to 13 per cent after the US Army began investigations into accusations that some of CACI's employees were implicated in the abuse of inmates at the Iraqi Abu Ghraib prison.¹⁸

The contemporary private military and security industry is not only distinct from mercenaries; there is also a significant variety within the

¹⁵ S. Chesterman and C. Lehnardt (eds.), *From Mercenaries to Market: The Rise and Regulation of Private Military Companies* (Oxford: Oxford University Press, 2007); A. Alexandra, D.-P. Baker and M. Caparini (eds.), *Private Military and Security Companies. Ethics, Policies and Civil-Military Relations* (London: Routledge, 2008); E. Krahmann, 'Regulating Private Military Companies: What Role for the EU?' *Contemporary Security Policy*, 26, no. 1 (2005), 1–23.

¹⁶ C. A. Babcock, 'Contractor Fraud Trial to Begin Tomorrow', *Washington Post*, 13 February 2006; J. Scahill, 'A Very Private War', *Guardian*, 1 August 2007; S. Raghavan and J. White, 'Blackwater Guards Fired at Fleeing Cars, Soldiers Say', *Washington Post*, 12 October 2007.

¹⁷ ArmorGroup, 'Regulation and Ethical Standards', at: www.armorgroup.com.

¹⁸ BBC, 'Inquiry into Interrogation Firm', 27 May 2004.

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sector. Several authors have attempted to develop typologies of private military and security companies. Peter W. Singer, for instance, distinguishes firms according to the types of services that they provide. According to Singer's tip-of-the-spear typology, 'military provider firms' supply implementation and command, 'military consultant firms' offer advisory and training services and 'military support firms' provide non-lethal aid and assistance.¹⁹ Christopher Kinsey argues that private military and security firms can be differentiated along two axes: the means they use to secure their objective, ranging from lethal to non-lethal, and the object of their protection, ranging from private to public.²⁰ In practice, these categories more often than not merge into one another. The same firms frequently supply a variety of functions and adapt their services in response to changing customer demands.²¹ The services of 'military consultant firm' DynCorp, for instance, range from aviation maintenance, logistics and information technology (IT) support to military training.²² Even management, risk-consulting and defence procurement companies have significantly expanded their role in the provision of services for the armed forces. The British government support service company Babcock thus oversees the management, maintenance and repair of the UK's four Vanguard-class submarines, which carry its Trident nuclear missiles.²³ Finally, the character of individual companies can transform as the result of mergers and the transnationalization of the industry. Owing to the problems of making categorical distinctions, this book uses the term 'private military companies' for all security and support firms working for national armed forces or international military operations. Rather than referring to particular types of companies or services, the term seeks to highlight that these contractors are replacing uniformed soldiers and form an integral part of contemporary civil-military relations.

The rise of the private military industry

The expanding literature on private military companies has identified a multitude of explanations concerning the causes of the rise of the private military industry.²⁴ Foremost among them have been functional

¹⁹ Singer, *Corporate Warriors*, p. 93.

²⁰ Kinsey, *Corporate Soldiers and International Security*, p. 10.

²¹ Avant, *The Market for Force*, p. 17; Mandel, *Armies without States*, pp. 99–106.

²² Singer, *Corporate Warriors*, p. 93; DynCorp, at: www.dyn-intl.com.

²³ Babcock, 'Babcock Naval Services', at: www.babcock.co.uk.

²⁴ Singer, *Corporate Warriors*, pp. 49–70; Kinsey, *Corporate Soldiers and International Security*, pp. 51–7; Avant, *The Market for Force*, pp. 30–8; Alexandra *et al.*, *Private Military and Security Companies*.

Table 1.1. *Armed forces personnel*²⁵

Country	1985	1990	1995	2000	2005	2007
USA	2,244,000	2,181,000	1,620,000	1,483,000	1,372,000	1,346,000
UK	334,000	308,000	233,000	218,000	211,000	190,000
Germany	495,000	545,000	352,000	319,000	246,000	247,000

Table 1.2. *Defence spending (per cent of GDP)*²⁶

Country	1985–1990 (average)	1990	1995	2000	2005	2007
USA	6	5.3	3.8	3.1	4.1	4
UK	4.5	3.9	3	2.4	2.7	2.3
Germany	3	2.8	1.6	1.5	1.4	1.3

arguments related to changes in the security environment, budgetary pressures and the market forces of supply and demand. The end of the Cold War is, typically, regarded as the starting point of the proliferation of private military firms as it led to massive cuts in national armed forces personnel and military spending on both sides of the Atlantic. As Tables 1.1 and 1.2 indicate, the size of the armed forces and defence budgets in the UK, the USA and Germany are nearly half of what they were at the height of the Cold War in the 1980s.

The reductions in the number of uniformed soldiers have contributed to the expansion of the private military industry in two ways.²⁷ Firstly, they have supplied a large surplus of ex-military personnel from which private firms have been able to recruit employees with the necessary training and skills. Secondly, the cuts have created new demand for military expertise and personnel after governments in Europe and North America realized in the mid 1990s that their expectations of a peaceful ‘new world order’ had been premature.²⁸ Although the threat

²⁵ Statistics from NATO, at: www.nato.int/docu/pr/2007/p07-141.pdf. Note: 2007 numbers are estimates, and German armed forces in 1990 are the combined armed forces of East and West Germany after unification.

²⁶ Statistics from NATO, at: www.nato.int/docu/pr/2007/p07-141.pdf and SIPRI, ‘Military Expenditure Database’, at: www.sipri.org. Note: 2007 numbers are estimates.

²⁷ J. L. Taulbee, ‘Mercenaries, Private Armies and Security Companies in Contemporary Policy’, *International Politics*, 37, no. 4 (2000), 434; Singer, *Corporate Warriors*, p. 67; Spearin, ‘American Hegemony Incorporated’, 28; Avant, *The Market for Force*, pp. 30–1.

²⁸ As proclaimed by G. H. W. Bush, ‘Toward a New World Order’, Speech to Congress, 11 September 1991.

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of a military attack on Western national territories has disappeared, new security threats have emerged from the break-up of the former Yugoslavia, nuclear proliferation among 'rogue states' and international terrorism. Moreover, the changed relationship with Russia has unblocked the UN Security Council and has opened the way for a growing number of multilateral interventions into regional conflicts which have sprung up partially as the result of the reduction of Soviet or US support for allies in the developing world. Since Western electorates have been unwilling to give up their peace dividends for seemingly distant threats, private military contractors have provided governments in Europe and North America with a way of bolstering their armed forces without formally increasing their size. In fact, private military companies have offered to even further reduce the number of uniformed military personnel and, so some governments have argued, the cost of defence.²⁹ Finally, private military firms have been at the forefront of the technological revolution in military affairs which has demanded highly developed civilian skills in information technology for network-centric warfare.³⁰

However, functional arguments alone cannot account fully for the proliferation of private military contractors. Among other things, they fail to explain why there is significant variance in the approach taken by the European states and North America, despite their common security environment. Within the context of this book, this is represented by the question of why the UK and the USA have embraced the privatization of military services to a much greater degree than Germany. Following the logic of the arguments outlined above, the case should be reversed. Germany has reduced the number of its armed forces personnel to a greater degree than its Anglo-American allies, yet is now engaging in new missions overseas for which the Bundeswehr has little expertise or training. Germany was also more directly affected by the civil war in the former Yugoslavia, is geographically closer to the conflict in Afghanistan and is within direct reach of nuclear 'rogue states' such as Iran. Lastly, Germany had and still has greater need to modernize its national armed forces and, thus, for the perceived advanced technological skills of private military contractors.

²⁹ H. M. Howe, 'Private Security Forces and African Stability: The Case of Executive Outcomes', *Journal of Modern African Studies*, 36, no. 2 (1998), 307–31; D. Brooks, 'Messiahs or Mercenaries? The Future of International Military Services', *International Peacekeeping*, 7, no. 4 (2000), 131; Markusen, 'The Case against Privatizing National Security', 477–8.

³⁰ P. W. Singer, 'Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security', *International Security*, 26, no. 3 (2001–2), 195.