

## Privatized Military Industry

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Private military force has played a central role in the long history of human warfare. From the mercenaries of ancient Egypt, Greece and Rome, to roving bands of medieval Crusaders and groups such as the East India Company that fueled British imperialism in the 18<sup>th</sup> and 19<sup>th</sup> centuries, it would be difficult to find a time when private actors were *not* involved in providing military services. However, European nations in the 17<sup>th</sup> century began to view non-state warriors as a force to be curtailed, and the project of consolidating standing armies became the dominant trend over the next 400 years (Kaldor 2012; Singer 2003; Van Creveld 1991). Weberian political theory defines the state as an entity possessing a monopoly over the use of legitimate force, and modern notions of warfare informed by Clausewitz discuss war primarily as a contest between states; this militaristic vision of the state and state-centric idea of war prevailed throughout most of the 20<sup>th</sup> century, marked as it was by World Wars I and II, the formation of newly-independent states in Africa and Asia, and the Cold War clashes that ravaged much of the globe.

Yet the post-Cold War era has witnessed a sharp reversal of this trend, with privatization becoming increasingly prevalent in military affairs. The rise of the privatized military industry (PMI) is one of the most visible outcomes of this fundamental shift. Within the PMI, diverse actors and institutions—ranging from individual mercenaries to private military companies (PMCs) and private security providers (PSPs)—offer military services previously reserved for state armies in exchange for payment. Although their corporate structures and specific task portfolios may differ, these entities are united by their common mission to enter military engagements for profit, and together they comprise a new landscape of violence in which private contractors sometimes outnumber official soldiers in combat zones (Zenko 2015; Schooner 2008; Miller 2007).

Before discussing the PMI specifically, it is helpful to consider the ways in which the end of the Cold War and the accelerating pace of globalization have contributed to the privatization of force more generally. Mary Kaldor contends that globalization has led to the proliferation of *new wars* that are fundamentally different from *old wars*, in that they involve not states but “networks of state and non-state actors,” and direct most violence against civilians rather than toward other states (2012, vi).<sup>[1]</sup> Centering her analysis on a case study of the war in Bosnia-Herzegovina and drawing on data from a wide set of post-Cold War conflicts, Kaldor associates *new wars* with the erosion of the state’s monopoly of legitimate force. This has occurred “from above” through the transnationalization of military forces and “from below” via privatization, blurring the line between “the political and the economic, the public and the private, [and] the military and the civil” (2012, 113). In a similar vein, Achille Mbembe identifies the weakening—or even disintegration—of African states as being at the core of many recent armed conflicts on the continent. Mbembe highlights the link between deregulation policies that favor the market as an instrument for allocating resources and the “privatization of sovereignty,” which has led to increasing paramilitarization and confusion between public goals and private interests in the production of violence (2001, 78).

These developments have led to the proliferation of armed actors that are neither official state forces nor insurgents. Both Kaldor and Mbembe discuss various forms of privatized force, including *paramilitaries*, *self defense units* and *foreign mercenaries*. P.W. Singer, whose book *Corporate Warriors* made the term “privatized military industry” famous, considers private military companies to be distinct from the aforementioned categories by virtue of their legally incorporated

status. Yet the appearance of PMCs on the world stage is tied to the same processes of transnationalization and privatization that Kaldor and Mbembe observe in their studies of recent developments in the modalities of violence. The fall of the Berlin Wall in 1989 and subsequent cessation of hostilities between the United States and the Soviet Union led many governments to downsize their militaries; this process was accompanied by the rise of Reaganism and Thatcherism, which encouraged the outsourcing of key government functions at all levels to the private sector. These shifts resulted in a surplus of arms (and armed men) ready to be repurposed in any number of the intrastate conflicts that arose after the demise of ‘bipolar’ geopolitics (Singer 2003). Furthermore, Susan Strange connects globalization not only to the “yawning hole of non-authority” left by the retreat of the state, but also to the rising power of market forces (1996, 14). The transfer of power from states to the market, Strange explains, has made “political players” of multinational corporations (1996, 44)—a category to which various PMCs belong. It is no accident, then, that early PMCs like Executive Outcomes and Sandline International emerged in this climate, aided by a legal vacuum that allowed them to sell military services as registered corporations on the basis of “assumed legal status” (Baum and McGahan 2013, 9).

Just as the PMI is merely one subset of groups lumped together under the term “privatized force,” so too are there different subdivisions within the PMI. Singer (2003) develops a typology of PMI companies based on the type of services provided and how they fit into the client’s organizational structure. Thus, the three categories he proposes are *military provider firms*, which offer direct tactical assistance in combat; *military consultant firms*, defined by their focus on advisory and training services; and *military support firms*, which provide supplementary services such as logistics, transportation and intelligence.

These categories are useful for underscoring some essential features of the PMI, but it is easy to see how a single PMC—such as the Blackwater Security Company, later rebranded Xe Services and now known as Academi—could take on any combination of these activities in a war zone. Alternative typologies thus abound. In practice, Elke Krahnmann notes that such taxonomical exercises rarely hold up under close scrutiny, as “the same firms frequently supply a variety of functions and adapt their services in response to changing customer demands” (2010, 8). Other approaches to studying the PMI involve examining the legal and moral implications of allowing the private sector to take over military tasks formerly reserved for state apparatuses.

The emergence of PMCs presents a challenge to existing international conventions governing violent conflict and war. The relevant pieces of international law—Article 47 of Protocol I Additional to the Geneva Conventions (1977) and the International Convention Against the Recruitment, Use, Financing, and Training of Mercenaries (1989)—are designed only to apply to mercenaries defined as *individual* actors, and have not been updated to cover incorporated entities (Baum and McGahan 2013; Percy 2007). Godfrey et al. have called Article 47 of the 1977 Geneva Conventions “almost unworkable” in a world of PMCs (2014, 117). Although vocal critics within the UN, such as former Special Rapporteur on mercenaries Enrique Bernales Ballesteros, have argued that the activities of PMCs are essentially equivalent to those of mercenaries—and should thus be regulated accordingly—these views are still not reflected in actual legal practice. The void is quite palpable in the case of a corporation like Blackwater, which at the time of the U.S. troop surge in Iraq claimed both civilian and military status, effectively declaring itself immune from civilian lawsuits and exempt from the Uniform Code of Military Justice (Scahill 2007). None of the private contracting firms deployed in Iraq fell within the jurisdiction of Iraqi authorities. Blackwater’s murky legal status initially frustrated efforts to prosecute the employees responsible for the killing of 14 Iraqi civilians in Baghdad’s Nisour Square on September 16<sup>th</sup>, 2007; the lawsuit dragged on for years before the contractors were eventually tried under a legal provision allowing their prosecution in the District of Columbia.

James Cockayne summarizes that the current international legal framework has struggled in confronting the “resurfacing of legitimate violence which is deterritorialized and nonhierarchical—and thus both private and global” (2006, 460). Cockayne falls within the group of scholars who look to international law to provide solutions for this jurisdictional disparity, but others, such as Andre Penalver, advocate for tougher laws to be enacted within the countries that contract PMCs. Observing that

international law effectively lacks “the backing of a legislature, an executive body, and a judiciary with compulsory jurisdiction” (2010, 465), Penalver proposes a new US criminal statute with extraterritorial jurisdiction as the most effective way to hold PMCs accountable.

Kaldor, however, envisions a new kind of global responsibility as necessary in dealing with the transnational nature of “new warfare.” Observing that the language of international humanitarian law—which emphasizes ‘intervention,’ ‘peacekeeping,’ and ‘state sovereignty—is largely based on Clausewitzian notions warfare between states, she envisions the creation of a *cosmopolitan regime* that would take a more active and less state-centric approach to protecting civilians and enforcing international human rights law. Though her proposals are focused on conflict termination and humanitarian assistance, one can see how the notion of “cosmopolitan law enforcement” could be developed to better manage the PMI.

PMCs pose challenges not only to international and domestic legal systems, but also to the state apparatuses that utilize their services. Redefining the “ultimate expression of sovereignty” as the *power to kill*, Mbembe argues that the incursion of private forces into a sphere previously reserved for regular armies has resulted in an “inextricably superimposed and tangled” system of “overlapping and incomplete rights to rule” (2003, 32). This potential for competition and conflict may be more obvious in the context of Colombian paramilitaries or Pakistani warlords, which operate within the territory to which the state claims sovereignty and whose actions frequently go against government interests (Acemoglu, Robinson and Santos 2012), but it is nonetheless apparent when one examines the relations between PMCs and soldiers in the US interventions in Iraq and Afghanistan. The Nisour massacre is just one of many transgressions that undermined the US “hearts and minds” campaign in Iraq (Singer 2003; Scahill 2007), and the notorious dealings of contractors with warlords and corrupt officials have similarly tainted US operations in Afghanistan (Chayes 2015; Tierney 2010).

As this brief overview suggests, the continued expansion of the privatized military industry dovetails with many of the themes studied by globalization scholars: the erosion of state power, privatization, and the formation of new territorialities in the production of violence. It is perhaps this last item that provides the greatest opportunity for Global South studies. A private military firm that could be legally incorporated in one country, contracted by another and sent to conduct operations in a third country with workers and finance capital from disparate parts of the world requires new ways of thinking about territory and power. Although many studies implicitly consider North-South power dynamics in the PMI as primarily an issue of “northern” armed actors being deployed in “southern” spaces—US-, European- and Israeli-based corporations carrying out missions in Latin America, Africa and the Middle East—this view is limiting in that it ignores the ways in which the PMI transcends these simple geographic divisions. Subhabrata Bobby Banerjee’s (2008) discussion of the Filipino, Pakistani, Indian and Sri Lankan workers who do the “dirty and dangerous work” (1552) of US contractors in Iraq and Guantanamo Bay is a welcome reminder that the experiences of these so-called “third-party nationals” are often overlooked. Paul Higate’s (2012) work on the gendered and racialized experiences of Fijian and Latin American security contractors is another example of scholarship that digs beneath the surface of what is often presented as a white male-dominated profession. There is still much room to expand on these and other themes; Global South studies will benefit from more careful attention to the social and political dynamics within the privatized military industry.

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[1] The distinction between “new” and “old” wars has been challenged by scholars who point to similarities between many post-1989 civil wars and those of the Cold War Period (see: Kalyvas, Stathis [2001], “‘New’ and ‘Old’ Civil Wars: A Valid Distinction?” *World Politics* 54.1: 99-118). While the development of the private military firms discussed in this entry can also be traced back to the Cold War, the proliferation of formally incorporated PMCs—especially those that are multinational—is indeed “new,” having emerged after the establishment of Executive Outcomes in 1989. Kaldor’s perspective regarding the impact of globalization on armed conflicts is, therefore, relevant context for understanding this phenomenon.

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