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The Privatized Military Industry

Legal black hole or lucky chance?

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The Privatized Military Industry

Legal black hole or lucky chance?

“National armies with professional soldiers allegiant to their nation-state represent a surprisingly new phenomenon. Prior to the French Revolution, no dishonour followed the man who fought under a flag not his own. Instead, leaders often turned to private soldiers during times of military necessity, and these men were equally willing to soldier for pay on someone else’s behalf.”¹

Since the end of the Cold War in early 1990s the global conflict structure and even the nature of warfare itself changed fundamentally. One of the most dramatic changes since then is the changed “relationship of the nation-state to the private exercise of force”,² the rise of private corporate actors in military and security affairs and, increasingly, also in combat. Today’s conflicts are unimaginable without these ‘corporate warriors’.³ The number of security contractors in the ongoing conflict in Iraq is estimated to be between 20,000 and 30,000,⁴ making them the second largest contingent in Iraq after the United States forces. That created, according to the *Economist*, the “first privatized war”.⁵ At the same time, it is estimated that there are around 10,000 security contractors in Afghanistan.⁶ Within the last 15 years, advanced militaries grew increasingly reliant on corporate military contractors, in well-known fields like consultancy, logistics and support but also increasingly related to combat like the United States in Iraq right now.⁷ At the same time, well-known stories, remember one at times of individual dogs of war, do re-enter the scene.⁸ With the rise of privatized military industry the age-old mercenarism problematic seems to be revived. The well-publicized incidents in U.S. controlled Iraqi prison Abu Ghraib, where private contractors seemingly tortured, or the Zimbabwean ‘rent-a-coup’ scandal with the son of a former British Prime Minister in a star role⁹ fuel a controversial discussion concerning the danger as well as the chances of privatizing armed forces.

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- ¹ Todd S. Milliard, ‘Overcoming Post-Colonial Myopia: A Call To Recognize And Regulate Private Military Companies’, 176 *Military Law Review* 1, at 26 (2003).
 - ² Jackson Nyamuya Maogoto, ‘Subcontracting Sovereignty: The Commodification of Military Force and the Fragmentation of State Authority’, 13 *Brown Journal of World Affairs* 1, at 147.
 - ³ Peter W. Singer coined the term of ‘corporate warriors’ in 2001. See Peter W. Singer, ‘Corporate Warriors: The Rise of Privatized Military Industry and its Ramifications for International Security’, 26 *International Security* 3 (2001/2002).
 - ⁴ Toni Pfanner, Editorial, 88 *International Review of the Red Cross* 445, 445 (2006). If you, like some scholars and experts argue, include not only those that provide direct military and security assistance but also those that provide indirect supply support or logistics, the number of contractors would be several times higher.
 - ⁵ Military Industrial Complexities, *ECONOMIST*. March 29, 2003, at 56. Having in mind that the U.S. employs around 60 private military firms in Iraq, Singer recommends the term “coalition of the billing” instead of “coalition of the willing”. See Peter W. Singer, ‘Outsourcing War’, *Foreign Affairs* March/April 2005, accessed at <http://www.foreignaffairs.org/20050301faessay84211/p-w-singer/outsourcing-war.html> (visited December 30, 2008)
 - ⁶ E. L. Gaston, ‘Mercenarism 2.0? The Rise of the Modern Private Security Industry and Its Implications for International Humanitarian Law Enforcement’, 49 *Harvard International Law Journal* 1, at 223 (2008).
 - ⁷ Private Military Companies like e.g. Blackwater do fight there with sophisticated weaponry shoulder to shoulder with U.S. soldiers.
 - ⁸ Juan Carlos Zarate, ‘The Emergence of a New Dog of War: Private International Security Companies, International Law, and the New World Disorder’, 34 *Stanford Journal of International Law* 75 (1998).
 - ⁹ In March 2004, Logo Logistics, a British-South African private military firm, was accused of plotting to overthrow the government of Equatorial Guinea. A planeload of employees was arrested in Zim-
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Development and trends toward armed forces privatization

“The predominant cultural view, reflected in legal and ideological prohibitions, is that military skill should not be bought and sold, that it should not be conceived of or treated as a commodity. It is viewed as ‘non-commodifiable’.”¹⁰

At the start of the 1990's, three key dynamics fostered the emerge of a modern private military industry.¹¹ First, the end of the Cold War, which made the huge militaries around the world use- and senseless and allowed a significant downsize of national armed forces.¹² The second force was a general trend toward privatization and outsourcing of government functions around the world.¹³ And third, transformations in the nature of armed conflicts that blurred the lines between soldiers and civilians. The scope of armed conflicts shifted from an inter-state level with nation-states as main actors towards intra-state or sub-state levels with various, sometimes even non-political actors which, in-turn, opened the door for economically motivated actors. The significant downsize of the world's armed forces led to two mayor problems. First, hundreds of thousands of soldiers – amongst them whole battalions of special forces like the Russian *Spetsnaz* or Apartheid's South African *32-Bataljon* and *Koevoet*¹⁴ – became unemployed, without any education but the military. Simultaneously, the pacification of international politics – as expected by many policymakers and scholars – failed to appear. While governments around the globe down-sized their armed forces, the increasing global instability – e. g. the wars of disintegration in Former Yugoslavia, the collapse of Somalia – created a demand for more troops. “Warfare in the developing world also became messier – more chaotic and less professional – involving forces ranging from warlords to child soldiers, while Western powers became more reluctant to intervene.”¹⁵ With the shortfall of support from either Soviet Union or the West due to the end of bloc face-off, many states in the third world became weak, fragile or even failed. Somalia e. g., under Siad Barre a loyal ally of the Soviet Union, collapsed right after the implosion of Soviet Union. Other states were not able anymore to ensure essential public goods and could not effort proper bureaucracy or military and relied increasingly – while facing intra-state turmoils – on private military firms to protect key-resources.¹⁶ Thus, there arose an increased demand for private contractors in the field of security and defence, in both the developed and under-developed parts of the

babwe. Mark Thatcher, the son of Margret Thatcher, was implicated in the scandal as an alleged funder.

¹⁰ Montgomery Sapone, ‘Have Rifle with Scope, Will Travel: The Global Economy of Mercenary Violence’, 30 *California Western International Law Journal* 1, at 5 (1999).

¹¹ See Peter W. Singer, ‘Outsourcing War’, *supra* note 5.

¹² Actually, the drivers behind that development differed tremendously. The states of the Former Soviet Union had to downsize their military due to necessity while facing the economic collapse. The key-point in Western states was the “imperative to reinvent and streamline government, and cut military costs”, see Maogoto, *supra* note 2, at 147-148.

¹³ Following the ‘victory of capitalism’, it was a ideological trend to turn over state responsibilities to the marketplace.

¹⁴ Many of these former special forces of Apartheid South Africa became employees of the archetype of today's privatized military firms, *Executive Outcomes*. See Khareen Pech, ‘Executive Outcomes – A corporate conquest’, accessed at http://www.iss.co.za/dynamic/administration/file_manager/file_links/PEACECHAP%.PDF?link_id=30&slink_id=1299&link_type=12&slink_type=13&tmpl_id=3 (visited December 30, 2008)

¹⁵ P. W. Singer, ‘Outsourcing War’, *supra* note 5, para 4.

¹⁶ A good example is the Westafrican country Sierra Leone. “The weak state – which spent little money on any bureaucracy, including the military – relied on private foreign firms to protect Sirra Leonean resources, giving rise to private armies supported by foreign firms to protect diamond regions”. Dena Montague, ‘The Business of War and the Prospects for Peace in Sierra Leone’, 9 *Brown Journal of World Affairs* 1, at 231.

world. As Singer distinguished, there do exist three different kinds of Private Military Companies (PMCs). First, there are military support firms, offering supplementary services.¹⁷ Those are not new and the military generally is used to give minor services like logistics or catering to private contractors. Second, there are military consulting firms, offering strategic advice and military training.¹⁸ And third, with a dramatically increased meaning in current warfare, there are military provider firms – ‘the tip of the spear’ in privatized military industry – offering implementation and command of combat-services.¹⁹ Especially the recently increased employment of the latter, which seems to be a trend, raised controversial discussions:

“The only difference between what these firms do and what mercenaries do is that the companies have gained the imprimatur of government for their actions.”²⁰

Efficiency vs. Necessity

“...the unmistakable trend in the past several decades has been toward more and more private contracting, a hollowing out and deconstruction of the state that is in a sense the classic condition of postmodernity.”²¹

The drivers of and forces behind that process of privatization in security and military affairs are globally somehow the same – in developed Western democracies as well as in weak or failing states – but the intentions of and the necessities pressuring the official employers are often different. As described above, the key dynamics of this development are the end of the Cold War (which produced a vacuum in international security due to the downsizing of Western armies and the collapse of militaries in the third world), ‘transformations in the nature of warfare’ (the shift toward a substate level in combination with the failing states phenomenon) and the ‘normative rise of privatization’ in general.²² These three forces have been taken effect in Western democracies as well as in fragile states. But, while Western administrations opted initially for privatization and outsourcing of armed forces for reasons of efficiency,²³ many actors within weak or fragile states had no other choice but contracting private firms due to state collapse.²⁴ Thus, while the driving forces are globally the same, the outcome of privatizing the military is radically different. In Western democracies with functioning legal systems and unflawed statehood the privatization of the military worked somehow well until now. In the United States e. g., private contractors are working in strategically very sensitive areas without substantial problems due to effective control of private contractors through official institutions. In 2000, the U.S. Ministry of Defence, the Pentagon, outsourced the operation of the computer and communication system at “NORAD’s

¹⁷ P. W. Singer, ‘Corporate Warriors’, *supra* note 3, at 200.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ See Ken Silverstein, ‘Privatizing War’, *Nation*, 28 July 28-4 August 1997, at 17.

²¹ Laura A. Dickinson, ‘Government for Hire: Privatizing Foreign Affairs and the Problem of Accountability under International Law’, 47 *William and Mary Law Review* 135 (2005), at 141.

²² P. W. Singer, ‘Corporate Warriors’, *supra* note 3, at 193.

²³ Economics 101: Outsourcing makes things better, quicker, and/or cheaper due to the free-market mechanisms. But, concerning the outsource of military affairs, Singer critically notes, that without strategic planning and control “the result is not the best of privatization but the worst of monopolization”. P. W. Singer, ‘Outsourcing War’, *supra* note 5.

²⁴ See *supra* note 16. In the aftermath of ‘capitalism’s victory’, many low-developed countries were pressured to privatize as much as possible of their government functions for getting loans from e. g. Worldbank.

Cheyenne Mountains base, where the U.S. nuclear response is coordinated”.²⁵ In critically endangered states with failing or failed government functions, the situation is different. While using private military contractors for ensuring a minimum of control over their own resources or for fighting intra-state rebels, these countries and administrations often do not have a functioning legal system, prosecution mechanisms or even enough law-enforcement personnel. If a private firm hired by a government of a weak state breaks its contract e. g. by criminal means, the employer – meaning the government – cannot enforce it or even prosecute the criminal wrongdoers which creates a legal blackhole for greed and profit. The hire of others has led to a rise of internal tensions inside several weak states and even military coups with private support took place.²⁶ While these processes – the rise of private military actors and the ‘failed-state’-phenomenon – go hand in hand in some parts of the world, it allows well-known kinds of soldiers of fortune – which were “vilified and outlawed” in the twentieth century²⁷ – à la Bob Denard or “Mad Mike” Hoare²⁸ to re-enter the international conflict scene in this areas under a corporate cover.²⁹ Although this picture seems different to the situation in Western democracies, some of the age-old mercenary problems currently reached also the developed countries. The United States, the mayor employer of private military contractors, faced several scandals quite recently besides Abu Ghreib which uncovered that “incentives of a private company do not always align with its clients’ interests or the public good”, the key problem of mercenarism.³⁰ Several military provider firms, inter alia Halliburton and Custer Battles, have been accused of abuses, overcharging and of running fraudulent schemes of subsidiaries and false charges. With the affiliation of U.S. government officials with these military firms, Eisenhowers fears concerning the military-industrial complex seem to occur.³¹ Therefore, while the drivers toward a privatized military industry are globally somehow the same, also the impacts of this process seem to tend into the same direction. In fragile states with low or no state control, the problem is already virulent, but with increasing hollowing out of the state in Western democracies, the problem is also there on the horizon.

²⁵ P. W. Singer, ‘Corporate Warriors’, *supra* note 3, at 189. See also: Steven Saint, ‘NORAD Outsources’, *Colorado Springs Gazette*, September 1, 2000, at A1.

²⁶ Sinclair Dinnen, ‘Militaristic Solutions in a Weak State: Internal Security, Private Contractors, and Political Leadership in Papua New Guinea’, 11 *Contemporary Pacific* 279 (1999).

²⁷ Jackson Nyamuya Maogoto/Benedict Sheehy, ‘Contemporary Private Military Firms under International Law: An unregulated “Gold Rush”’, 26 *Adelaide Law Review* 2 (2006), at 2.

²⁸ Bob Denard, born Gilbert Bourgeaud, was one of the most famous and influential mercenaries since World War II. He fought, inter alia, in Congo, Angola, Zimbabwe and Gabon and he participated in around four coups in the Comoro Islands. Thomas Michael “Mad Mike” Hoare, another famous mercenary, fought in Congo and was affiliated with Seychelles affairs in 1978.

²⁹ It is argued that this is especially in Africa the case. For an overview, see: A. Musah/J.K. Fayemi (ed) (2000), ‘Mercenaries: An African Security Dilemma’, London: Pluto Press.

³⁰ P.W. Singer, ‘Outsourcing War’, *supra* note 5.

³¹ In 1961 President Dwight Eisenhower cautioned: “In the councils of government we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex.” Quoted in: Jackson Nyamuya Maogoto, ‘Subcontracting Sovereignty: The Commodification of Military Force and the Fragmentation of State Authority’, *supra* note 2, at 1.

Privatized Military Industry and the shortcomings of Law

“...500 years after the demarcation between mercenary and standing armies, 700 years after the formation of the free companies, and 2300 years after Alexander employed mercenary Cretan archers, the international community again wrestles with the question of how to regulate mercenaries.”³²

While the use of privatized force in military campaigns has been an age-old feature in conflicts, the recent boom in ‘outsourcing war’ in context to Iraq and Afghanistan ‘has attracted new attention to the status and role of privatized military and security actors under international law’.³³ The impunity of security contractors for the human rights abuses in Abu Ghreib³⁴ or for aggressive and lethal behaviour while engaged with U.S. operations³⁵ and other negative reports led many including the United Nations (UN) to the argumentation that private military firms are no more than modern mercenaries under a corporate cover.³⁶ Therefore, they should be banned under the standing international prohibition on mercenarism.³⁷ But, as Gaston points out, “[t]he existing instruments prohibiting mercenarism would be difficult to apply to most PMSCs [private military and security companies], making it easy for the many states that want to continue to use these companies to circumvent the standing international ban”.³⁸ Private military firms are private corporate entities selling military services while under international law generally individuals who sell these services on their own are thought to be prohibited.³⁹ Article 47 of Protocol I of the Geneva Conventions defines a mercenary as any person who:

“Is specially recruited locally or abroad in order to fight in an armed conflict; Does, in fact, take a direct part in the hostilities; Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised by or on behalf of a Party to 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; Is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict; Is not a member of the armed forces of a Party to the conflict; and Has not

³² Todd S. Milliard, ‘Overcoming Post-Colonial Myopia: A Call To Recognize And Regulate Private Military Companies’, *supra* note 1, at 11.

³³ E. L. Gaston, ‘Mercenarism 2.0?’, *supra* note 6, at 221.

³⁴ See e. g., Farah Stockman, ‘Civilians ID’d in Abuse May Face No Charges’, *Boston Globe*, May 4, 2004, at A1. The article notes the involvement of private contractors in the Abu Ghreib torture scandal.

³⁵ See e. g. James Glanz/ Alissa J. Rubin, ‘From Errand to Fatal Shot to Hail of Fire to 17 Deaths’, *New York Times*, October 3, 2007, at A1. The article describes the shooting of 17 civilians by a *Blackwater* security convoy.

³⁶ See e. g. Press Release, United Nations, ‘Private Security Companies Engaging in New Forms of Mercenary Activity, Says UN Working Group’, November 6, 2007. South Africa, the motherland of *Executive Outcomes*, has treated private security firms and contractors as mercenaries in its domestic legislation. See e. g. ‘Regulation of Foreign Military Assistance Act 15 of 1998 (S. Afr.)’, accessed at <http://www.info.gov.za/gazette/acts/1998/a15-98.pdf> (December 31, 2008)

³⁷ ‘International Convention Against Recruitment, Use, Financing and Training of Mercenaries’, adopted December 4, 1989, 2163 U.N.T.S. 75 (entered into force October 20, 2001); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) art. 47, June 8, 1977, 1125 U.N.T.S. 3.

³⁸ E. L. Gaston, ‘Mercenarism 2.0?’, *supra* note 6, at 222, para 2.

³⁹ P. W. Singer, ‘War, Profits and the Vacuum of Law: Privatized Military Firms and International Law’, 42 *Columbia Journal of Transnational Law* 521, at 524, para 2.

been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.”⁴⁰

The definitions of mercenaries in international law are therefore so vague, restrictive and comprehensive, “that it is nearly impossible to find anyone in any place who fulfills all of the criteria, let alone a firm in the PMF [privatized military firm] industry”.⁴¹ And so it is the case with other treaty regimes concerning mercenarism, as e. g. the Convention for the Elimination of Mercenarism in Africa of the Organization of African Unity (OAU).⁴² The U.N. Convention against Mercenaries⁴³ of 1989, which entered into force in 2001 has had nearly no legal impact due to the fact that only very suspicious powers ratified it and virtually no one has been prosecuted under the convention’s law.⁴⁴ Singer stresses that that the list of signatories acts almost a form of *jus cogens* that runs counter to the treaty, somehow a kind of “anti-customary law”.⁴⁵ The problem of these treaty regimes is “their focus on intent for identification of mercenaries, thereby making the regimes generally unworkable”.⁴⁶ Remembering one at the medieval concept of *Animus* in just war doctrine⁴⁷, it is hardly possible to judge someones intention rightly. Due to the lack of objective proxies, it is difficult to prove that someone is fighting exclusively for profit while the fighter might pretend everything else but that. Another problem is the legal definition of and focus on individuals as mercenaries. Employees of private military firms are not acting as individuals, but are part of entities that organize their activities. They are liable to their superiors, who are bound (or not) to their clients by contract. Thus, these private firms “represent quasi-state actors in the international arena, which takes them outside the mercenary concerns of the international community”.⁴⁸ Therefore, international law seems to ignore the phenomenon of private military firms. And, having in mind that private military firms operate in over fifty countries and often on behalf of governments, state practice – the determination of customary international law – seems to legitimate these actors instead of regulating them.⁴⁹ But, while international law obviously falls short concerning legal regulation of the current privatized military industry, so do national legislations. Although a regulation of private military firms on national levels is on a first glance much more possible and promising, the globalized nature of this private military industry argues against the success of any single national approach.⁵⁰ If a country would begin to target such a firm, it could easily relocate itself to another place. There will always be a regime or dictatorship seeking its own profit through offering opportunities for such corporations. Moreover, the often extra-territorial engagement of these firms in weak or failed states inheres another problem.

⁴⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, 1125 U.N.T.S 3, 16 I.L.M. 1391, art. 47.

⁴¹ P. W. Singer, ‘War, Profits and the Vacuum of Law’, *supra* note 40, at 524, para 2.

⁴² Convention of the O.A.U. for the Elimination of Mercenarism in Africa, July 3, 1977, O.A.U. Doc. CM/433/Rev. L. Annex 1 (1972).

⁴³ See *supra* note 38.

⁴⁴ Singer points out that most of the ratifying powers either permitted or directly benefited from the mercenary trade. P.W. Singer, ‘War, Profits and the Vacuum of Law’, *supra* note 40, at 531, para 2.

⁴⁵ P.W. Singer, ‘War, profits and the Vacuum of Law’, *supra* note 40, at 531, para 2.

⁴⁶ P. W. Singer, ‘War, Profits and the Vacuum of Law’, *supra* note 40, at 529, para 2.

⁴⁷ *Animus* means ‘rightful intention’, which was nearly impossible to prove. See e. g. Stephen C. Neff, (2005), ‘War and the Law of Nations – A General History’, Cambridge, pp. 51-52

⁴⁸ Juan Carlos Zarate, ‘The Emergence of a New Dog of War: Private International Security Companies, International Law, and the New World Disorder’, *supra* note 8, at 145.

⁴⁹ It seems sometimes, that most of the states do not have an interest in punishing mercenaries. E. g., the United States’ national legislation prosecuted only one person for mercenarism since 1939, although there were definitely hundreds or even thousands of them. See e. g. Larry Taulbee, ‘Myths, Mercenaries and Contemporary International Law’, 15 *California Western International Law Journal* 339 (1985).

⁵⁰ P. W. Singer, ‘War, Profits and the Vacuum of Law’, *supra* note 40, at 524, para 3.

As described above, a weak central government like the one of Sierra Leone would not be able to monitor, let alone to punish the actions of a foreign private military firm.⁵¹ And finally, most domestic legislations “either ignore the phenomenon of private military actors, deferring to the international level, or fall well short of any ability to define or regulate the industry”, in weak states the same as in Western democracies.⁵² Thus, while the privatized military industry exists obviously in the grey areas of international law and national legislations fall short of the industry’s globalized character, a legal system of regulations is strongly needed. Without clear standards and conditions under which private military firms can operate, including a system of mechanisms for sanctioning potential wrongdoers, these firms could evolve toward a threat of international security while bringing back the shadow of the past of mercenarism in international armed conflicts. With increasing numbers of fragile and failed states without national prosecution mechanisms, the solution for this legal blackhole has to be found on an international level while improving existing international law.

Private Military actors: A prospective answer to the public end in peace support?

“There are disadvantages to using a private military company, of course. Its soldiers would not be accountable for their actions in the same way that soldiers in a national army would. Anyone with enough money could bring a private army in on his side. On top of all this, the stigma attached to private military companies means that their use is a public relations disaster waiting to happen.”⁵³

After this brief description of challenges, dangers and legal shortcomings with regards to the privatized military industry, it seems to be ridiculous to think about engagement of private, profit-oriented contractors in peace support missions. On the one side, this seems to be true. There would always be the danger of cheating. E. g., a private contractor could change the sides during mission, if another conflict-actor just offers enough. Or a contractor could try to fuel the tensions between the parties of a ceasefire/peace treaty for lengthening the conflict for profit purpose. As longer the conflict, as longer the contract and the profit. Without a solid and comprehensive international system of regulations including sanctioning-mechanisms concerning this industry, such fears are definitely qualified. But this only one side of the medal:

“The critics of mercenaries say that paid war-makers cannot promote peace in the long run. But this is like pretending that weapons designed for killing cannot be lifesaving.”⁵⁴

Global armed conflicts are getting messier everyday and, as recently seen in the Democratic Republic of Congo or elsewhere, could quickly and easily spill-over and may infect whole regions without external interventions. With increasing numbers of flawed, weak or failed states without proper state control, the risk of conflict increases, too. But, most of the states which are able to intervene, namely Western democracies, are either already overstretched with their military or unwilling and reluctant to do so, fearing domestic turmoils in context to possible blood price of

⁵¹ Al J. Venter, ‘Sierra Leone’s Mercenary War’, *Jane’s International Defence Review*, November 1995.

⁵² P.W. Singer, ‘War, Profits and the Vacuum of Law’, *supra* note 40, at 536-537.

⁵³ Jonah Schulhofer-Wohl, ‘Should We Privatize the Peacekeeping?’ (2000), *Washington Post*, accessed at <http://www.globalpolicy.org/security/peacekpg/general/private.htm> (visited December 30, 2008)

⁵⁴ Sebastian Mallaby, ‘New Role for Mercenaries’ (2001), *Los Angeles Times*, accessed at <http://www.globalpolicy.org/security/peacekpg/reform/2001/mercenaries.htm> (visited December 30, 2008)

own (citizen-) soldiers. Having in mind the spill-over potential of nowadays nearly every conflict all over the globe, there exists the utilitarian necessity to intervene for Western countries if they want to avoid prospective conflicts at their own borders. Although the common mentality right now would not accept a privatization of peace-interventions, the private sector offers the potential for dealing with these issues in the future:

“The full value of private military companies to the international community will not be seen if the international community is not willing to acknowledge their possibilities. Furthermore, lack of such an acknowledgment will allow the liabilities of military companies to go unchecked, whereas engagement with them could result in better regulation.”⁵⁵

If a solid global system of regulations and sanctions concerning private military firms could be established in the very near future, making them liable to their contracts, it could be the private answer of the public end in peace support and intervention and might fill the gap of Western reluctance. Even nowadays, it seems to be more promising to employ a half-decent private contractor, equipped with experienced former special forces, instead of sending badly paid and unmotivated African or South Asian forces⁵⁶ which rape and abuse children in lieu of monitoring a peace treaty. Private military companies exist, so instead of ignoring them the world should take the chance this phenomenon do offer:

“The UN, with the full support of the U.S. and other leading countries, establish an international regulatory scheme covering the operations of private military contractors. Whether private companies are ever used for combat in a peace operation or not, they are active globally, and should therefore be regulated.”⁵⁷

⁵⁵ Schulhofer-Wohl, *supra* note 54.

⁵⁶ Without getting into detail, I guess the incidents I mean are well-publicited.

⁵⁷ Peter H. Gantz, ‘The Private Sector’s Role in Peacekeeping and Peace Enforcement’ (2003), *Refugees International*, accessed at <http://www.globalpolicy.org/security/peacekpg/training/1118peacekeeping.htm> (visited December 30, 2008)

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