

Public War, Private Soldiers

Written by Aaron Francis O. Chan

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AARON FRANCIS O. CHAN, SEP 30 2009

Public War, Private Soldiers: The Explosion of Private Military Contracts in the Bush Administration

On September 16, 2007, the issue of private military firms exploded out of the dry confines of academic debate and into the public consciousness as bright, bloody pictures blanketed the newspapers and television networks that had long ignored the subject. Seventeen Iraqis had been violently killed and more than twenty others wounded while they went about their business in Nisour Square, in the heart of Baghdad's once fashionable Mansour District.¹

Bullet casings littered the ground. These were collected and examined by the first responders on the scene, American soldiers from the Third Battalion, 82nd Field Artillery Regiment, Second Brigade, of the First Cavalry Division. They concluded that the bullets had been fired from American-made weapons like the M4 rifle, M240B machine gun, and M203 grenade-launcher. According to the report, there was no trace of fire from AK-47 assault rifles or other weapons that were typically used by Iraqi insurgents.²

A convoy of black SUVs had reportedly blazed into Nisour Square, ran through traffic to speed past busy streets, and then simply stopped and started shooting into the street. Bullets rained down from machine gun perches and ripped through steel, glass, and flesh.³ Eyewitness accounts tell of frightened children gunned down as they tried to flee and other cars that were shot up as they attempted to back away from the convoy.⁴ Multiple radio orders to "cease fire" were recorded.⁵ When the shooting stopped and the vehicles fled the area, it was already too late.

The shooters had been Americans, but they were not soldiers under the command of the United States military. Instead, they were private contractors from Blackwater USA, hired by the U.S. State Department to provide security for its diplomatic personnel. In the ensuing frenzy of media coverage and Congressional investigations, Blackwater's executives would boast that no "principal" placed under the firm's protection had ever been killed.⁶ When CEO Erik Prince was publicly questioned about the death toll of Iraqi civilians "engaged" by Blackwater's contractors, he asserted that the actual figure was "unknowable".⁷

Under Order 17 of the Coalition Provisional Authority (CPA), signed by the departing American proconsul L. Paul Bremer III on June 27, 2004, American contractors cannot be prosecuted in Iraqi courts.⁸ To further complicate the legal context, the U.S. government's various agencies also have different rules for regulating contractors and their infractions. The Department of Defense holds its contractors accountable to the Military Extraterritorial Jurisdiction Act (MEJA), by which civilian actions on the battlefield are judged according to the Uniform Code of Military Justice.⁹ This rule does not apply to contractors hired by the State Department.

The military investigation called the Nisour Square incident a "criminal event", with no evidence of Iraqi provocation.¹⁰ But neither the Iraqis nor the U.S. military were allowed to hold the Blackwater contractors liable. Instead, as had happened in another incident involving Blackwater and the death of an Iraqi vice president's bodyguard, the accused were simply spirited quietly out of the country with the tacit support of the State Department.¹¹

Jeremy Scahill notes that even though tens of thousands of mercenaries have deployed in Iraq, private security forces faced no legal consequences for their deadly actions in the first years of the occupation. As of spring 2008, not

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a single one has been prosecuted for a crime against an Iraqi. With an estimated 180,000 private contractors operating in Iraq, outnumbering even the 160,000-strong U.S. military presence after a recent surge in reinforcements, this figure raises obvious questions and hints at some dangerous answers.¹²

Why are there suddenly so many private military contracts from the U.S. government?

Why are they so important relative to the incredible strength of the U.S. military?

This work is intended to be an introductory and tentative overview of this strange new phase in the development of the military-industrial complex. In understanding and answering the questions posed by this study, a qualitative review of available literature will be used to trace the historical development of the intersection of military thinking, political strategy, and ideological fervor within the institutions of the American defense establishment. The tentative nature of the study comes from the fluidity of the field itself. As of this writing, there is still no universal consensus in the literature on the terminology used to describe the private military industry.¹³

Given their politically sensitive nature and their operation as private companies, Private Military Firms (PMFs) are reluctant to release important documents. Most of their dealings with the United States government are just as sensitive and hence, are bound to be filed away in classified government archives, unavailable to Freedom of Information Act requests until they no longer pose a problem. It is a common refrain that the literature on PMFs faces a paucity of primary sources.¹⁴

In this case, the goal is not to present a chronology of contracts and memos, but to explain how the Clinton Administration's enthusiasm for privatization ballooned into the reality of 180,000 well-armed civilians drawn from over 100 countries roaming the streets and deserts of American-occupied Iraq on behalf of 630 private companies.¹⁵

The story is told with primary sources detailing the public recommendations and ideas of the key players in this parallel "surge" of military outsourcing, while secondary academic sources serve as the strand holding together the concept behind this paper: that the post-Cold War military drawdown birthed two ideological reactions that eventually converged in the opening provided by the Bush Doctrine of preventive war, revolutionizing the role of private contractors in the military.

The Peace Dividend

War is a constant. People have been fighting and killing each other since before the modern state was even a flicker in the minds of political thinkers.¹ Mindless murder, however, does not count as warfare. Instead, war is delineated from crime by its use of violence as a method to pursue essentially political goals.² War is organized, directed, and *political* violence.

When the Peace of Westphalia birthed the modern nation-state, this new, sovereign, political entity was expected to ensure stability by enforcing an exclusive monopoly over the legitimate use of physical force within a given territory.³ Entire generations of military and strategic thinkers took this state-based premise as the foundation for subsequent analysis on how and why wars were waged and how to win future wars more effectively.⁴ War became *public* violence.

Warfare went public in a big way, but privatized warfare never really disappeared. Instead, it simply went underground.⁵ Mercenaries, once hired as "state" armies by the Italian city-states and other countries, left the stage of major interstate wars, booming as it was with the advent of total war ideologies and industrialized warfare, and found a niche in the dirty, low-intensity conflicts that riddled the decolonizing world.⁶

Colorful personalities like those of "Mad Mike" Hoare, "Black Jack" Schramme and Bob Denard exemplify the irregular and independent spirit of the old freelance mercenaries.⁷ Operating in small ad hoc teams and hired on a per-mission basis, these men were definitely not in the same league as the Private Military Firms of this study. As Peter Singer writes in his path-breaking book, "the essential difference is the *corporatization* of military services."⁸

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PMFs are private *business* entities first and foremost, structured and operated as professional corporations.⁹

Even in the security sector, where the state once held an absolute monopoly of force, the privatization effort born out of the neoliberal economic framework is creeping in. Market-based trends convinced even the U.S. military to outsource support functions and focus on their core competency of warfighting, leading to the growth of private firms that deliver to consumers a wide range of military and security services, once exclusively inside the public context.¹⁰ In the last decade, they have moved from the literal periphery of world politics and into the center of corporate boardrooms, becoming a normal, even necessary, part of most Western armies along the way.¹¹

Peter Singer provides the definitive typology of the private military industry. Beyond previous failed attempts at delineating between “active” and “passive” firms, the industry can be divided into military provider firms, military consulting firms, and military support firms.¹² Military consulting firms like Military Professional Resources Inc. (MPRI) offer experienced training and advisory in strategy and tactics. Military support firms like Brown and Root Services (BRS) provide non-combat functions like logistics and housing.

This study will focus on the military provider firm. Companies like Blackwater USA and Executive Outcomes are found on the front lines, providing the actual military skills needed in the battlespace. But while oil companies, drug cartels, and even poor developing nations such as Sierra Leone have an obvious deficit of skilled military manpower and leadership, the same cannot be said of the U.S. military’s All-Volunteer Force (AVF).

The growth of the private military industry and the firms that comprise it can be traced back to the end of the Cold War between the United States and the Soviet Union.¹³ Conflicts previously checked by the tension of the bipolar balance exploded, with international intervention no longer an attractive option for either superpower or the United Nations. The relaxing of tensions between the great powers also led to a downsizing of militaries in the developed world, freeing up highly demanded skills and equipment for these new war zones. David Isenberg calls this confluence of events the “macro-geopolitical factors” in the growth of PMFs.¹⁴

In the United States, victory in the Cold War provoked public calls for a so-called “peace dividend”, which entailed the drawdown of the massive American war machine built up through the decades of hostilities.¹⁵ Downsizing began as early as the early 1990s, in the administration of George H.W. Bush, despite a temporary surge during the first Gulf War in 1991.

The ultimate disintegration of the Soviet Union and the end of communism in Eastern Europe left the United States without a serious foe or “peer competitor”, in Pentagon jargon. Despite attempts to paint China as a rising threat, the consensus in the mainstream defense establishment was decidedly against a further military build-up, arguing that continued military spending took away badly needed investment from the lagging private sector.¹⁷

Cutting back development and procurement on expensive and redundant weapons projects, as well as on the big and bulky “legacy systems” already in service worked in tandem with other macro-geopolitical factors to create an environment ripe for the private sector to step in.¹⁸ Internationally, the flood of cheap arms and unemployed soldiers had already led pioneering firms like Executive Outcomes in South Africa to involve itself in post-colonial nightmares like the civil wars in Sierra Leone and Angola.¹⁹

Privatization in the American military sector began as a relatively gradual process, starting with the Office of Management and Budget’s 1966 Circular A-76, on contractor involvement with nation building in South Vietnam.²⁰ The trend picked up again in the Clinton Administration’s privatization programs, starting with then-Vice President Al Gore’s National Performance Review, going on to the outsourcing of logistics and support functions in the airpower-heavy Bosnia and Kosovo military interventions.²¹ When the Bush Administration came into office, this gradual privatization effort would accelerate into a revolution.

The Revolutionary Moment

In the wake of a humiliating defeat in Vietnam, the United States military decided to overhaul its entire, gargantuan

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force structure. General Creighton Abrams, Army Chief of Staff from 1972 to 1974, led the move to an All-Volunteer Force (AVF), a dramatic transformation of the old, conscripted army that had blundered and wasted itself away in the jungles of Southeast Asia.¹

The conscript system had forced reluctant, demoralized teenagers to fight in a war they neither understood nor supported, encouraging rampant drug use and other abuses on the front lines of the Vietnam conflict. The AVF sought to professionalize the military by filling out the ranks with fewer, but more dedicated volunteers committed to training and service.² In effect, the Abrams Doctrine also aimed to ensure more responsive military decision-making from civilian politicians by increasing the political cost of sending American soldiers into harm's way.³

While the high command was busy transforming the composition of the services, two other movements within the defense establishment also worked along parallel tracks to push the American military away from relying on manpower and towards a more high-tech future. At the same time that strategic thinkers in the Pentagon were beginning to publish theories of a "revolution in military affairs" (RMA), bureaucrats, political insiders, and academics were also beginning to accept an ascendant political ideology called neoconservatism.

The early years of the Cold War, in the 1950s and 1960s, saw the level of American military spending at its highest-ever percentage of GDP.⁴ Facing the threat of nuclear destruction, the Pentagon brought in the best and the brightest of academia. The U.S. Air Force sponsored the RAND Corporation, a think tank that would be at the forefront of strategic systems analysis, particularly on matters of nuclear strategy and national security.⁵

Albert Wohlstetter and Andrew Marshall belonged to this civilian "war club", and both were heavily involved in the strategic reorientation of American military doctrine in the aftermath of the Vietnam debacle. In the closing stages that war, new precision weapons had been used against enemy targets for the first time.⁶ The bombing of a few troublesome bridges did nothing to alter the outcome, but Wohlstetter spotted the potential of these highly accurate, laser-designated "smart" weapons. He used his clout in the bureaucracy to push a "system of systems" that would combine Unmanned Aerial Vehicles (UAV), precision ordnance, and GPS to strike directly at the enemy.⁷

Andrew Marshall, the head of the Pentagon's Office of Net Assessment, realized that the Soviet military was terrified that the Americans had mastered a "military-technical revolution" that had resolved the trade-off between destructive force and high accuracy in favor of the latter.⁸ Recognizing the concept's practical value in forcing a restructuring of the American military's hidebound doctrine of conventional war and reliance on old school weaponry, Marshall started promoting Wohlstetter's ideas as an American "revolution in military affairs." (RMA).⁹

Whether they realized it or not, Wohlstetter and Marshall were pushing the RMA as a military-technical ideology. It was an entirely new lens with which to view the use of military force and the strategic choices available to those who wield it. Although there was skepticism from the Army, Navy, and Air Force, none of which wanted to sacrifice their tanks, submarines, and fighter planes for a new, *remote*, way of war, RMA found key civilian supporters in light of the "peace dividend" that was already retiring these traditional legacy systems.¹⁰ These civilian outsiders, called neoconservatives, had a stake in returning to power to apply their own political-strategic ideology.

In a way, the neoconservative movement was also born out of the Vietnam experience. George Packer describes neoconservatives as disillusioned liberals and the backgrounds of the major figures in the movement confirm this assessment.¹¹ Amid the radicalism of the 1970s and the shock of American defeat, the neocons learned a different lesson from Vietnam than mainstream liberals who saw the crippling reality of American overstretch. Instead, thinkers like Robert Kagan saw the impotence of American leaders in using America's incredible military strength to beat back its many enemies.

The cornerstone of the neoconservative worldview was its almost axiomatic premise that American "hyperpower" was an undoubted force for good in an extremely dangerous world. The possibility of instability on the margins of geopolitics blowing back to threaten the United States inevitably leads to the advocacy of constant American intervention in the world's hotspots. With these danger zones rife with enemies behind every corner, military action is expected to root them out and make the world safe for the spread of democracy.¹²

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For a while, the neoconservative star was on the rise, when many of the movement's leaders found themselves working on the Reagan Administration's security policies. They put their ideas into action, calling for covert anticommunist initiatives in Central America and continued political confrontation with the Soviets.¹³ Neocons such as Paul Wolfowitz even wrote the Pentagon's controversial Defense Planning Guidance (DPG) for the first Bush Administration, a grand strategy which called for American "full spectrum dominance" of the international system.¹⁴ Soviet defeat in the Cold War only reinforced their belief in the viability of this political-strategic ideology.

When the Clinton Administration took power in 1992, the neocons found themselves out in the cold once again. In response to what they saw as Clinton's weak internationalism, groups like the Project for a New American Century (PNAC) called for aggressive policies such as regime change in Iraq.¹⁵ Donald Rumsfeld, Richard Perle and Paul Wolfowitz, all PNAC members, were all destined to become major bureaucratic players in the administration of George W. Bush.

The Privatization Explosion

The end of the Cold War shook the world. The collapse of the world's most centralized economy ushered in a short period of Western euphoria. The victory of the democratic capitalist system over the communist enemy even led Francis Fukuyama to suggest that "the end of history" had come.¹ Others were not so sanguine. Samuel Huntington, for one, believed that "the world became different in the early 1990s, but not necessarily more peaceful."²

There is a universal consensus in the PMF literature on this point. The end of the superpower duel between the U.S. and the Soviet Union unleashed a storm of local, internecine conflicts from the Balkans to the Horn of Africa.³ Military downsizing in the rest of world provided plenty of room for the emergent global private military industry, flush with trained men and surplus weapons, to capitalize on the market opportunity in these impoverished war zones.⁴

Firms like Executive Outcomes (EO) and MPRI were used as force multipliers by states whose weakness invited rebellion and armed insurgency.⁵ Sierra Leone hired EO to beat back the Lord's Resistance Army (LRA) and take back its lucrative diamond fields. In the Balkans, MPRI training helped an embattled Croatian government to beat back Serbian fighters in Operation Storm, a successful offensive that established Croatia as an independent state.⁶

Small states facing rebellion obviously have a dire need for professional military support. It's not surprising that the age of free markets gave birth to the demand for a global military industry. The rise of high-tech warfare also encouraged the wide use of civilian contractors to maintain important equipment for the U.S. military.⁷ However, the unprecedented use of civilians as boots on the ground, as manpower sent into battle for military operations, by the world's single superpower is something that cannot be explained by these macro-level factors. What happened in Iraq was a veritable privatization revolution within the world's most powerful public military.

When Donald Rumsfeld walked into the Pentagon for a second appointment as Secretary of Defense, he brought along both his neoconservative orientation and a firm belief in the RMA. As a private citizen who had served on defense commissions for space weapons and missile defense during the Clinton years, Rumsfeld had long been a believer.⁸ He publicly expressed his vision to remake the military into the fast, agile, tech-heavy force of RMA doctrine, which necessarily meant a "light footprint" for actual soldiers in the theaters of operation.⁹

With the "peace dividend" drawdown going on regardless of future plans or ideology, RMA was a political godsend. With the fewer soldiers in the Pentagon's Total Force proving to be more of a political liability with every passing crisis, American military interventions turned away from "heavy footprint" nation-building, as in Somalia, which meant de facto occupation and a strong military presence, to the bombing campaigns and cruise missile strikes that were a hallmark of the casualty-light NATO operations in the former Yugoslavia.¹⁰

September 11, 2001 was a singular moment in American and neoconservative history.¹¹ With almost 3,000 dead on American soil, the Bush Administration reacted aggressively in its new foreign policy. As laid out in the 2002 National Security Strategy, the Bush Administration first aimed to depose regimes considered a clear threat to American interests by waging preventive war. Second, the United States vowed to support the promotion of democracy around

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the world. Both expansive missions would need to be met with tightening military means.¹²

The Bush Doctrine was the perfect revolutionary opening for the explosion of private military contracts from the U.S. government. The new foreign policy vision, in perfect line with neoconservative principles, dramatically expanded the mission of the American military. When Saddam Hussein's Iraq was targeted by the administration, everything came together to create the perfect market opportunity for firms like Blackwater and CACI to make windfall profits.

The invasion of Iraq began in March 2003. Operation Iraqi Freedom was a quick success, using bombing campaigns to "shock and awe" the crumbling enemy before the main ground assault. Rumsfeld wanted to showcase the success of his military transformation and ordered General Tommy Franks of Central Command to continually cut down the number of troops in his plan.¹³ By the end of the war, there were too few American soldiers on the ground to effectively enforce order. When looting besieged Baghdad, American soldiers could not be spared to police the streets.¹⁴

The military downsizing that had emphasized the manpower-light RMA had been captured by an aggressive neoconservative policy that put increasing strain on the Total Force available, particularly the downsized infantry. Unfortunately, the entire point of an occupation *is* to use soldiers to police dangerous areas and enforce order in the middle of an indigenous insurgency.¹⁵ Thus, the only politically feasible way for the government to prevent military overstretch while getting massive numbers of people into Iraq was simply to hire them from the private sector.

PMFs surged into Iraq on government contracts because they were needed. Instead of risking a political backlash by reviving the draft, the Bush Administration opened the floodgates for private contractors to carry out basic government functions, such as diplomatic security for administrators from the CPA and State Department. The troops were kept busy with counterinsurgency work.¹⁶

Political decisions do not occur in a vacuum, but within an institutional context. This study's conceptual framework took the civilian defense bureaucracy as an independent variable and the military structure, with its PMF component, as the dependent variable precisely because the bureaucracy is seen to be the more powerful institutional actor in making policy decisions, at least given the long tradition of civilian control over military policy in the United States.

Assessment

Being a relatively recent phenomenon, the literature on PMFs has yet to achieve the depth or breadth present in the academic discussion of more traditional political issues, such as that on democratization. However, the PMF field makes up for the problem of quantity with the variety that is already on display. The private military industry is definitely controversial enough to sustain any variation of work, ranging from work on military tactics to legal analysis.

There is broad consensus on the major causes for the rise of the global private military industry; namely, the macro-geopolitical factors set off by the end of the Cold War. In fact, the analysis of the industry's development is often taken for granted. The clear divergence of perspectives within the literature is on the normative level. Within the normative debate over the legitimacy of PMFs lies another cleavage, this time between those who apply a military-technical standard in their value judgment and those who choose a political-legal stance.

The greatest contributors to both the positive and normative areas of work in the PMF field are Peter Singer and David Isenberg. Both have made substantial and important contributions to the positive aspect of the literature, especially in the contribution of new concepts. Isenberg began early, with one of the first broad descriptions of PMFs and their work in 1997.¹ Singer came out with a path-breaking book in 2003, contributing the typology that has since become the academic standard.²

The descriptive focus of these works led them to become the foundation for everything else that would follow. Without a general history and definition to build a moral or technical case on, normative analysis of the private military industry would not be able to get very far. The choice to turn away from immediate judgment of the industry allowed these works the distance that became their greatest analytical asset, helping their conclusions become the eventual

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consensus.

Then there is the resolutely normative work on PMFs, which implies the inclusion of a value judgment as part of the study's objectives. This judgment can be either good or bad, can be expressed right from the start or reached in the conclusion. Policy papers and recommendations advocating an end to the use of PMFs are seen in the briefings published by organizations like Human Rights Watch and War on Want.³ However, their analysis of the causes behind the use of PMFs remain essentially the same with the consensus built by Isenberg and Singer.

Reaching judgment requires a standard of analysis, and there are two broad categories in the normative PMF literature. First, there is the military-technical standard. This type of work is usually drawn from military documents or papers, where the author is attempting to gauge the operational value in PMFs in battlefield conditions. Usually coming from officers, the work understandably treats the presence of PMFs as a given, which is true for military planners, to see how they work on the technical side of operations, as against available military alternatives.

The best examples naturally come from within the military itself. Menker and Williams discuss the efficiency contributions of contractors in an Air Force logistics journal.³ McBride's thesis for the U.S. Army War College comes up with different strategic roles for contractors.⁴ Goddard explicitly details how PMFs are legitimate international entities in times of war.⁵ These examples consider private contractors as necessary parts of any military operation and therefore suggest the best ways to make use of them and maximize their technical military potential.

Second is the political-legal standard. The value judgments made in this category reference an ideal political condition or existing legal framework whose principles are violated by PMFs or their actions. Instead of analyzing the technical side of PMF operations, the political and legal implications are explored and explained. The greatest chunk of the PMF literature is devoted to covering this aspect of the debate. Most papers actually come to similar legal recommendations.

Jeremy Scahill's 2007 book, a case study of Blackwater USA, is a good example.⁶ From his investigation into the firm and its practices, we get a deeper understanding of the industry's operations in general. Singer and Isenberg also contribute a number of papers, usually focusing on PMFs in Iraq or the Blackwater controversy. Isenberg's output for BASIC is a treasure trove of data on the Iraq operations of companies like Blackwater, CACI, and Erinys International.⁷ Singer's papers for the Brookings Institution analyze the political implications of PMF activity for the future of nation-building, civil-military relations, and counterinsurgency in Iraq and other war zones.⁸

There is a general consensus on conclusions. The normative literature on PMFs typically make the same policy recommendations to create nonexistent regulation or tightening the basic legal framework already in use. However, the future of PMF research needs to find a way out of the absolutist impasse imposed between the descriptive work, on the one hand, and the decidedly normative writings, on the other. Leander and Van Munster's paper is an excellent model.

Instead of immediately working from a value judgment of PMFs, or simply providing a description that has already been extensively covered, Leander and Van Munster reconstruct the conceptual connection between PMFs and the neoliberal trend in governance, an eminently reasonable addition to the literature on the private military industry.⁹

With the military-technical and political-legal implications covered, and the presence of a solid consensus on wider causes, there was space in the literature for a historical explanation to zoom in on the micro-institutional factors propping up the accepted macro-level scenario. In the end, as shown by this paper, a long series of interrelated government decisions and geopolitical events led to the choice to send private soldiers to fight in a very public war.

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Written by: Aaron Francis O. Chan
Written at: University of the Philippines Diliman
Written for: Prof. Renato Velasco
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