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## Strategic Concealment: Locating Armed Private Contractors in State Foreign Policy

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# Strategic Concealment: Locating Armed Private Contractors in State Foreign Policy

## Abstract

The global expansion of armed private contractors has led to a revived interest in researching armed private contracting firms, especially investigating how their personnel have functioned as an extension of state foreign policy. However, the literature on the industry contains a confusing diversity of terms when reviewing such firms, whether private military company, private security company, private military security company, or even just mercenary. Using the Singer (2010) 'tip of the spear' typology, I analyze the distinctions across armed private contracting firms and discuss the differences between armed private contractors and conventional militaries, armed private contractors and mercenaries, and highlight the differences between private military companies and private security companies. I find several substantive distinctions, including recruitment and retainment, rent-seeking behavior and compliance with international regulations, and expected threat environment, respectively. Armed private contracting firms will continue to influence international security dynamics and necessitate further research and attention.

## Keywords

private military, private security, mercenary, security, PMC

## Disciplines

Defense and Security Studies | Peace and Conflict Studies | Public Affairs, Public Policy and Public Administration

## Comments

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## Strategic Concealment: Locating Armed Private Contractors in State Foreign Policy

### **Introduction**

On September 16, 2007, an armored convoy of armed private contractors working for Blackwater Worldwide and on contract with the State Department went to investigate an area in Baghdad, Iraq near the United States (US) embassy where an explosion had occurred earlier in the day (Whitten, 2012; Weinberger, 2007). During this excursion, Blackwater personnel fired upon the nearby population in Nisour Square, killing over a dozen Iraqi civilians and wounding many more (Whitten, 2012). Consequently, the Iraqi government sought to ban Blackwater Worldwide from operating in the country, with mixed success (Weinberger, 2007). Following this incident, Blackwater personnel were charged in the US, with two dozen Iraqi witnesses flown in to testify, although a federal judge later threw out a related case in 2009 (Apuzzo, 2014). In 2014, when the case was revived, four of the personnel associated with the Nisour Square shooting were found guilty: one of first-degree murder and three others for manslaughter and weapons charges (Apuzzo, 2014). Later in 2020, President Trump pardoned all four individuals, and they were released from prison (Safi, 2020). This saga continues to invoke one of the more explosive legacies of US involvement in Iraq, and yet, the American military was not even involved. Thus, it is evermore important to understand the role that armed private contractors can play in state foreign policy, as well as how the intricacies of the armed contractor industry itself can affect their influence.

This capstone paper reviews the literature on armed private contractors, then builds upon Singer's (2010) 'tip of the spear' typology to identify how armed private contractors have and continue to shape modern security and foreign policy dynamics.

## **Literature Review**

The privatization of violence is not new. However, the prominence that armed private contractors hold in today's foreign policy space is increasingly rivaled only by the times before the creation of the nation-state. The market dynamics surrounding the utilization of armed private contractors by various actors, particularly sovereign states, has been repeatedly called a stealth, or camouflaged, industry (Peltier, 2020; Markusen, 2022). Despite this, the body of research addressing this phenomenon has seemingly ebbed and flowed, with particular interest afforded to periods from 1998 to 2003 as scholars sought to understand armed contractors' relation to warfare; 2004 to 2009 following the US employment of contractors to scale during the Iraq War; and 2010 to 2014 as the research field bloomed and evolved into considering individual-level interactions (Anders, 2014). The increasing attention given to non-Western armed private contractors, such as Russia's Wagner Group, and the global expansion of the industry suggest the onset of a new wave of research.

The evolution of the armed private contractor industry has occurred over centuries. One of the earliest recorded examples of private, for-profit warriors can be seen in 2000 BC Mesopotamia with King Shulgi of Ur's army (Tsariuk, 2021) Some of the first recorded policy discussion surrounding the employment of mercenaries came much later from Niccolò Machiavelli within *The Prince*, wherein he warns against the utilization of mercenaries for a variety of reasons, including that personal pecuniary interest are their only motivation to fight (Pattinson, 2014). However, following the Napoleonic innovation of levée en masse where

citizens became those recruited to be warriors instead of a third-party entity, the state increasingly sought a monopoly on the use of force (Tsariuk, 2021). Scholars see this trend as generally having held since then, with a sustained and durable international distaste for mercenaries, and with the United Nations (UN) General Assembly releasing over one hundred resolutions against mercenaries from the late 1960s onward (Percy, 2007). Notably, it is this brief period of state monopolization of force since the Napoleonic era that is the exception, rather than the norm, when it comes to war.

Scholars such as Salehyan (2010) explore principal-agent theory in attempting to explain why states may seek to empower armed groups different from their own military and security forces while engaging in conflict. Reasons include perceptions of reduced costs in direct casualties and domestic political capital lost, ambiguity in culpability over violations of international law and norms, and a smaller potential footprint in comparison to an occupying force (Salehyan, 2010; Bowen, 2020). Similarly, employing knowledgeable locals can help lead to successful conflict outcomes (Salehyan, 2010). This functionalist perspective is suitably complementary to principal-agent theory, emphasizing flexibility and cost-efficiency in utilizing armed private contractors to augment military capabilities and respond to dynamic threats, allowing conventional militaries to minimize their standing army costs (Kruck, 2014).

Using armed private contractors as a proxy also can reduce transparency in governments engaging in violence that might otherwise be accountable to the electorate following the employment of conventional military personnel (Kruck, 2014). Standard processes of disclosure of casualties are not frequently as present in private firms as state militaries (Singer, 2007). It should be especially noted that the prospects of a draft to fill the ranks of a state's military have proved highly unpopular, such as in the United States and Great Britain, which have led to

implications on state foreign policy limiting participation in conflict (Schweller, 1992). Should a state require additional force capacity and have the resources to hire external actors, it is therefore incentivized to do so before resorting to something so widespread as a draft, especially if it can hire experienced soldiers rather than train new ones. Another perspective sees the use of armed private contractors as simply following free market dynamics, with firms seeking to meet the needs of clients while seeking optimal profit (Kruck, 2014). This view colors the armed private contractor industry as providing the commodity of force, for hire.

### *Contractors and the U.S.*

Within the US context, a 1955 Bureau of Budget directive codified a longstanding US policy of utilizing private enterprise for goods and services across the bureaucracy (Cotton et al., 2010). This became especially apparent during the Vietnam War, where resources became stretched in accordance with the war effort, and the US Department of Defense (DOD) began to employ contractors in a variety of capacities (Cotton et al., 2010). This policy has continued, and it can now be seen in the Office of Management and Budget (OMB) Circular A-76, emphasizing the need for competitively contracted commercial activities for needed services (Peters, 2020).

However, discussion of the intended roles for contractors has certainly become more complicated. Through a gradual shaping of the definition of ‘inherently governmental functions,’ the US government has outlined functions that must be undertaken by the government because of their critical relation to the public interest (Luckey et al., 2009). The definition of ‘inherently governmental functions’ comes from the Circular A-76 alongside the Federal Activities Inventory Reform (FAIR) Act of 1998 and the Federal Acquisition Regulation (FAR), meaning both law and policy shape the relationship between contractors and the US government (Luckey et al., 2009; Clanahan, 2013). An OMB Office of Federal Procurement Policy publication on

inherently governmental and critical functions in 2011 highlights inherently governmental functions such as “all combat, security operations in certain situations connected with combat or potential combat” roles (Government Publishing Office, 2011, p. 56229). Therefore, the relationship between armed private contractors and actions performing inherently governmental functions within near-combat scenarios is tenuous.

Kellogg, Brown, and Root (KBR) won the first Logistics Civil Augmentation contract for the US Department of Defense in 1992, providing dining and laundry facility support (Gambone & McGarry, 2014). When Operation Iraqi Freedom began in 2003, KBR expanded its role supporting the US military to further non-combat services from housing to water distribution and electrical work before later supporting nation-building projects throughout both Iraq and Afghanistan by 2009, with contracts valued upward of \$30 billion (Gambone & McGarry, 2014). Facing a dangerous operational environment with little support from the local government, KBR, alongside other contractors performing non-combat roles, developed their own security forces (Gambone & McGarry, 2014).

US government use of armed private contractors became especially widespread following the 9/11 attacks and consequent military engagements in Iraq and Afghanistan. At its peak in Q3 FY2012, 28,686 private security contractors were deployed in Afghanistan (Peters, 2021). Similarly, at its peak in Q3 FY2009, there were 15,279 private security contractors on contract in Iraq (Peters, 2021). At times, contractors outnumbered US forces in the tens of thousands, such as in Q1 2013 where 110,404 contractors matched the force of 65,800 US armed forces personnel in Afghanistan alone (Peters, 2021). In Afghanistan, armed private contractors were most likely to be local nationals from Afghanistan, whereas in Iraq they were much more likely to have nationality other than American or Iraqi (Schwartz, 2011). When compared to US

military personnel in Afghanistan, an armed private contractor was 2.75 more likely to be killed in action (Schwartz, 2011). If that contractor was providing mobile security services to the DOD, they were roughly 8 times more likely than uniformed military personnel to be killed (Schwartz, 2011).

### *Scandals and Controversy*

Certainly, the use of private contractors has not been without controversy. An organization called Civilian Military Assistance was tangibly involved with the Iran-Contra dealings and maintained tentative connections with the US government in providing arms to the Nicaraguan Contras in the 1980s, with even murkier instances of participation in the training of Contras or direct combat against the Sandinista regime (Belew, 2018). Much of the initial contemporary focus on armed private contractors surrounded three organizations: Executive Outcomes, Sandline International, and MPRI (Isenberg, 2009), due to several circumstances. Executive Outcomes intentionally grew their media presence surrounding their operations in Angola from 1994 to 1997, pushing forward their brand as a successful firm (Pech, 1999). Sandline International gained significant bad press over its later-dissolved contract with the government of Papua New Guinea to participate in stabilization operations against a rebel force following media coverage by an Australian journalist about the possible partnership (Dinnen et al.; 1997 Francis, 1999). MPRI's profile grew because of their work through the Democratic Transition Assistance Program in Croatia, which was thought to have reformed parts of the Croatian officer corps through training preceding the successful Croatian 'Operation Storm' into the Serbian-held region of Krajina in 1995 (Cilliers & Douglas, 1999). However, there were countless alleged war crimes, including ethnic cleansing and instances of looting or burning homes, which brought MPRI as much criticism as it had been hailed for its success in preparing

the Croats (Human Rights Watch, 1996). Similarly, MPRI maintained a questionable relationship with the US government, which had been prohibited from acting in Croatia amidst a UN embargo on the region, having been potentially used as a deniable intermediary to aid the Croats (Cilliers & Douglas, 1999).

Alongside the 2007 Nisour Square incident previously discussed and within the context of US coalition-held Iraq, it is important to recognize that the Coalition Provisional Authority Order 17 effectively made US contractors immune under Iraqi Law (Bremer, 2004). The Abu Ghraib prison outside of Baghdad, Iraq was home to one of the largest scandals the US faced during the initial stages of the Iraq War (Bina, 2005). The US Army and contractors from CACI International who provided interrogation and analysis capabilities, as well as translators from Titan Corporation, were found to be involved in numerous instances of abuse against Iraqi detainees (Bina, 2005). In Afghanistan, the local armed private contractor industry, primarily filled through native personnel, led multinational firms to rely on local contractors, who either bribed the Taliban or appeared to be armed bands without oversight who have, at times, targeted civilians (Filkins, 2010). A Congressional inquiry into US-contracted armed private contractors in Afghanistan found that ArmorGroup, which had been contracted for security at the Shindad airbase, had in fact subcontracted forces from two warlords, referred to by 'Mr. Pink' and 'Mr. White' (US Senate Committee on Armed Services, 2010, p. ii). Even though Mr. Pink eventually killed Mr. White in a mafia-style shooting before developing a clear relationship with Taliban fighters, personnel working for Mr. Pink continued to serve in security capacities for the US airbase. (US Senate Committee on Armed Services, 2010).

In 2004, what later became known as the Wonga Coup attempt in Equatorial Guinea implicated Simon Mann, a British ex-soldier who had been involved with the creation of

Sandline International and Executive Outcomes, although both organizations do not appear to have been involved in the failed effort that left Mann in jail (Krahmann, 2005; Hasian, 2011). Another failed coup attempt in Venezuela in 2020, involved a firm called Silvercorp USA, run by an ex-Green Beret, and had sought to remove the Venezuelan President Nicolas Maduro from power, but resulted in the imprisonment of several Venezuelan and US nationals that had been involved in the operation (Dugan, 2020). Therefore, armed private contractors have achieved limited success in their involvements in actions seeking regime change.

Similarly, the UN Working Group on the Use of Mercenaries acknowledged that it had received information on the violation of human rights in “Armenia, Azerbaijan, Central African Republic, Chad, Colombia, Equatorial Guinea, Ghana, Iraq, Mexico, Papua New Guinea, South Africa, Sudan, and Zimbabwe” by both mercenaries and PMSCs (del Prado, 2008, p. 435). However, it should be noted that this information is now rather dated, and the line between mercenaries and PMSCs is not clearly defined within these data. Within the context of the Libyan civil war, it is surmised that armed private contractors operated on both sides, fighting on behalf of and against the Gaddafi regime (Makariusová & Ludvík, 2012).

For the US DOD alone, a Government Accountability Office (GAO) report found that the DOD has been unable to comprehensively analyze its own contracts with armed private contractors supporting humanitarian and contingency operations (Sherman, 2021). Most problematically, the three data sources that the DOD uses for reviewing these contracts do not include complete information about personnel involved or their armed status (Sherman, 2021).

*International Law and Attempts at Regulation*

The body of international law concerning the armed private contracting industry deals primarily with mercenaries, such as Article 47 of Protocol I Additional to the Geneva Conventions from 1977 and the International Convention against the Recruitment, Financing, and Training of Mercenaries from the UN that came into force in 2001 (Percy, 2007). However, these attempts at regulating mercenaries are widely seen as being flawed, such as Article 47 requiring all six subsections defining a mercenary to be cumulatively met to be considered a mercenary by the law (Percy, 2007). One subsection highlights mercenaries must receive financial compensation exceeding what a typical soldier fighting for a military might receive, but this is rather ambiguous (Percy, 2007). Similarly, this definition of mercenary is only considered to be active within international armed conflicts, meaning that many instances of non-international armed conflicts are exceptions (Rizzotti, 2019). Another weakness behind these attempts at international regulation has been international willpower. The predominant force pushing international anti-mercenary laws are thought to have been African states, who developed the Organization of African Unity Convention for the Elimination of Mercenaries in Africa which, despite its limitations in enforcement, signals political intention to combat what these states saw as an issue (Percy, 2007). Western actors did not immediately match such an attitude, however. Following the Angolan mercenary trials of 1976 where several foreign nationals from the US and United Kingdom (UK) were executed for their varying involvement in the Angolan civil war, it is likely that Western states could have seen new international laws as a potential liability where the states might be held responsible for the actions of individuals (Percy, 2007).

### *US Attempts at Regulation*

In the 2008 National Defense Authorization Act, the US DOD, Department of State (DOS), and US Agency for International Development (USAID) established a memorandum of

understanding that allowed for armed private contractors to be subject to Uniform Code of Military Justice (UCMJ) or Military Extraterritorial Judicial Act (MEJA) proceedings if referred by the parent organization (Efflandt, 2014). From this, the Department of Justice would be notified of a suspected felony, although the efficacy of the following process is unclear (Efflandt, 2014). Moreover, the reliance on a memorandum of understanding excludes contractors associated with other agencies than the forementioned, removes military oversight and investigation processes that had previously occurred, and potentially minimized any potential oversight (Efflandt, 2014). The “patchwork” of laws related to governing contractors in the US, between UCMJ, MEJA, the PATRIOT Act, and 10 U.S.C. § 802(a)(10) for persons accompanying an armed force on contingency operations, or in times of declared war, have created a mix of especially diluted and incoherent avenues of accountability for contractor wrongdoing (Kemp, 2010, p. 506).

### *Industry Attempts at Regulation*

There has also been an industry-propelled creeping attempt toward regulation (Avant, 2016). From Sandline International claiming to be an ethical company to Blackwater claiming to work in the interest of the US, efforts have emerged (Avant, 2016). Others have been far more robust. The Montreux Document was part of this nascent attempt to standardize both understanding of armed private contractors and establish best practices to legitimize a legal armed private contracting industry (ICRC, 2008). The International Code of Conduct for Private Security Service Providers was produced by the International Code of Conduct Association (ICoCA), an organization including the governments of the Australia, Canada, Norway, Sweden, Switzerland, the United Kingdom, and the United States alongside 101 private security organizations as well as a variety of civil society organizations and observing entities (ICoCA,

n.d.). This effort sought to certify organizations that comply with the code, including considerations around the Montreux Document, toward raising standards and theoretically protecting human rights (ICoCA, n.d.). The UN Office on Drugs and Crime also published suggested guidelines on the use of force by armed private contractors serving in a maritime security capacity (Drew & McLaughlin, 2020).

However, these efforts are limited in enforcement. As McFate (2019) points out, the worst penalty that can come from violating International Code of Conduct Association guidelines by the organization itself is merely a revocation of membership. Notably, DOD relies heavily on third-party organizations to certify firms before contracting with them. Additionally, firms are supposed to self-report incidents that occur (Sherman, 2021). The 2015 DOS World Protect Services contract required that bidding firms comply with PSC 1.52, a certification process through the American National Standards Institute, a non-profit, and ASIS International, a related professional organization for security professionals (ASIS International, 2017). This is a similarly recurring theme for accountability of armed private contractors, where the general regulation is thought to occur in good faith, either by a certifying industry organization or by the organization itself.

### *Attitudes Toward Utilization*

Alongside attempts at regulation, there have been differing attitudes toward utilization of armed private contractors. As previously discussed, the contract between Sandline International and the government of Julius Chan in Papua New Guinea proved especially unpopular within Papua New Guinea, and additionally troubling enough to agitate the involvement of outside actors within the Australian media and potentially intelligence services (Dinnen et al.; 1997 Francis, 1999). What became known as the Sandline Affair led to the eventual removal of Prime

Minister Julius Chan and a lengthy investigation into the legality of the Sandline contract, which was later found to be legitimate (Dinnen et al.; 1997 Francis, 1999).

Other suggested uses for armed private contractors have received different reactions. Actress Mia Farrow recommended Blackwater Worldwide contractors during the conflict in Darfur to augment the force of African Union forces for peacekeeping purposes in what became a widely reported non-use of armed private contractors (Isenberg, 2008). Similarly, UN Secretary-General Kofi Annan announced in 1998 that he had considered the utilization of armed private contractors in peacekeeping functionalities hired by the UN, although he acknowledged that the world was not yet ready to privatize peacekeeping (Faite, 2004). It is therefore unsurprising that the UN has utilized armed private contractors in varying capacities. DynCorp personnel served as the entirety of the US force of UN Civilian Police through 2004 because of restrictions on US federal police involvement in international missions (Østensen, 2011). Both Aegis and Global Risk were contracted to protect UN officials in Iraq, and Defence Systems Limited provided security personnel for UNICEF in Sudan and Somalia (Østensen, 2011).

#### *'Tip of the Spear' Typology*

Singer's 'tip of the spear' typology offers one of the most compelling classifications of the privatized military industry, where the three categories of firm are broken out on a continuum by their proximity to combat (2010, p. 91). These three categories include military provider firms, military consultant firms, and military support firms, with each progressively distanced from direct combat operations (Singer, 2010).

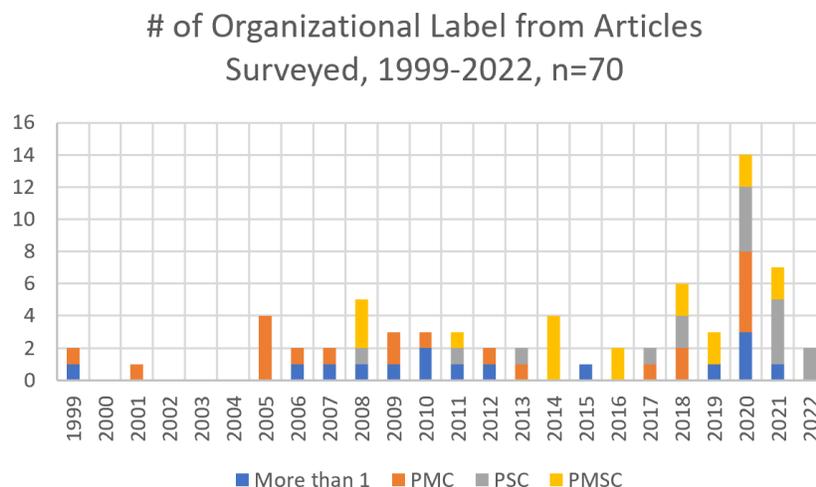
*Military provider firms* offer services, including foot soldiers or pilots, with Executive Outcomes, Sandline, SCI, and NFD used as examples (Singer, 2010, p. 93). *Military consultant*

*firms* advise and train, from strategic analysis to providing technical expertise to their contracting organization, such as Levdan, Vinnell, and MPRI (Singer, 2010, p. 96). *Military support firms* provide their clients with intelligence, transportation, and other critical logistical functions that allow for a force to sustain its operations. For example, Ronco and Special Clearance Services disable land mines; Strategic Communications Lab deals with psychological operations; and Business Risk Services, a private intelligence firm (Singer, 2010, p. 98-99). Singer acknowledges that firms frequently cross between categories or fall somewhere in-between the thresholds of distinction (Singer, 2010).

Given the highly contentious nature of armed private contractors, alongside a rich history of both their involvement in conflict and efforts to regulate their usage, there is a plethora of existing scholarly and practitioner literature. However, in reference to armed private contracting firms, there is also a confusing variety of terms utilized (see European Asylum Support Office, 2020; European Asylum Support Office, 2021). Three of the predominant labels include private security companies (PSCs), private military companies (PMCs), and private military and security companies (PMSCs). This paper expands upon the Singer (2010) typology by focusing on the frontline involvement of armed private contractors as those within the theorized ‘military provider’ category.

## **Methodology**

In attempting to ascertain any initial temporal or distributional relationships in the usage of different terms, I identified a sample of 70 articles that were related to the armed private contracting industry. I broke these articles down by publishing year and the associated organizational label of PSC, PMC, PMSC, or noted if more than one of these terms was utilized. The following figure provides incipient insight into this assortment of works.



**Figure 1. Armed private contractor organizational labels associated with 70 articles from 1999-2022**

It is highly likely that this sample is not fully representative in any statistical setting. However, the reasonably-even divide across PSCs, PMCs, PMSCs, and even a considerable proportion of articles using more than one of these terms, suggest that there is either some sort of perceived or actual difference to be made in utilizing these terms. To further parse these distinctions, I examine the *military provider* category from the Singer (2010) typology and assess armed private contractors performing frontline functions. In the next section, I break down the following analysis into three discreet categories comparing distinctions across pairs: between armed private contractors and conventional military personnel, armed private contractors and mercenaries, and lastly private military companies against private security companies. This thematic analysis leverages both pre-existing literature and distinctions that I have identified following a review of over 70 articles dealing with armed private contractors, with the intention of producing some typological characteristics of distinction. I have chosen to exclude comparison of the private military and security company label (PMSC) because it appears generally as a hybrid term that encompasses both PSCs and PMCs without making any additional distinction, likely for convenience of understanding purposes.

## **Results, Discussion, and Recommendations**

### *I. Armed Private Contractors and Conventional Military Personnel*

The first set of distinctions fall between armed private contractors and conventional military personnel. Here I identified three key distinctions: (1) weapons and equipment; (2) recruitment and retainment; and (3) obligations and objectives.

#### *1) Weapons and Equipment*

Whereas the military has ready access to armament, adding the ‘armed’ to armed private contractors can manifest in different ways. For example, contractors assigned tasks involving the protection of maritime assets have utilized so-called “floating armories” to circumvent international challenges in moving arms and ammunition across national boundaries, with the vessels containing such material alongside other necessities for operations such as food and medical supplies for contractors to retrieve (Wilpon, 2018, p. 878; UN Office on Drugs and Crime (UNODC), 2020, p. 6). Floating armories are specifically intended to aid the market of maritime armed guards, and are therefore frequently located in the Red Sea, Gulf of Oman, and Indian Ocean (Wilpon, 2018; UNODC, 2020). Nonetheless, their presence alone indicates armed private contractors actively seek, and encourage a market for, an arms trade that can bypass national laws and boundaries to conduct their contracts (see Dudley, 2017). Similarly, there have been safety concerns about the weapons being transferred, the security of such vessels from piracy considering the sheer quantity of arms contained within, and additional issues regarding the well-being of the crew (Wilpon, 2018). While these floating armories are untouched by international law regarding the high seas thus far, there are vast legal considerations surrounding UN conventions and treaties on the arms trade, transnational organized crime, and maritime labor that can be invoked in relation to the relatively new phenomenon (UNODC, 2020).

## 2) *Recruitment and Retainment*

The methods for which armed private contractors hire and retain personnel are also distinct from a conventional military force. Conventional military forces have historically relied upon processes such as the draft, which has been proven to be unpopular (Schweller, 1992), or the all-volunteer force in the US where individuals seek employment as professional soldiers (Cowen & Smith, 2009). Whether using a draft or all-volunteer force, the goal behind maintaining military capability is to either function as a deterrent against conflict or achieve objectives during wartime to the benefit of the associated nation. However, armed private contractors operate under contract with a client, which can manifest as anything from an individual, business, or state actor (McFate, 2020). These contracting firms recruit employees in accordance with profitability and unlike state militaries where personnel are theoretically citizens or eventually going to gain citizenship, employee nationality will vary (McFate, 2020). In large part, these contracts will affect the strategic operations of firms, hiring more personnel as needed or shrinking staff alongside the bidding process (Cottier, 2006). Moreover, many prospective contractors cite the higher wages in comparison with their previous job as a large part of why they sought employment, whereas conventional military personnel may seek to serve due to a perceived duty to their country (Pattinson, 2014). A significant majority of armed private contractors have military or police backgrounds that allow them to display marketable skills for such contracts (Stanley, 2015; Dudley, 2017). Other scholars focus on the gendered roles surrounding armed private contractors and their employment (Stachowitsch, 2013).

## 3) *Obligations and Objectives*

The third set of distinctions between armed private contractors and conventional military personnel surround obligations and objectives. In terms of obligations, armed private contractor

firms are driven by profit incentives (Weiner, 2005; Pattison, 2014; McFate, 2020). Conversely, national militaries operate, at least in theory, toward the national interest and are not typically intended as for-profit entities. This creates an immediate contrast in how firms may choose to become involved in a conflict versus the circumstances under which a state's military may become involved. Similarly, there is another distinction between contractors and conventional military forces in their sensitivity to brand image. Armed contractor logos and brands tend to obscure or make little reference to combat, but when there is negative attention toward their organization, there will almost certainly be a shift in image (Cusumano, 2021). One salient example of this is the changing identity of Blackwater, which transitioned from Blackwater USA to Blackwater Worldwide before the Nisour square incident in 2007 forced a brand change to Xe, then Academi, after which Blackwater merged into Constellis Holdings alongside other firms like Triple Canopy (Cusumano, 2021; Prem, 2018). In contrast, state militaries have been consistent in their branding, despite any difficulties in recruiting that may have contributed to the demand for armed private contractors (Cancian, 2019).

Between these two entities, there is also a difference in accountability structures, aside from potential loss in prestige or international grievances against discreet organizations or institutions. Armed private contractors are highly unlikely to be subject to the responsibility of a chain of command (Cameron, 2006). Thus, any semblance of hierarchical accountability becomes rapidly murky, not just within the firm but also in terms of assessing client responsibility in relation to any wrongdoing (Rodio, 2021). Similarly, due to the competitive nature of the industry, it is likely within some contexts that multiple armed private contractors will be contracted within an area, such as the proliferation of contracts during the Iraq War,

where this multiplicity of actors further complicated by the fog of war limits the ability to implement accountability or justice when it comes to wrongdoing.

## *II. Armed Private Contractors and Mercenaries*

For the second analytical comparison, I distinguish between armed private contractors and mercenaries, with three more distinctions: (1) rent-seeking behavior, (2) weapons acquisitions sources, and (3) compliance with international law and norms.

### *1) Rent-Seeking Behavior*

An especially salient distinction between armed contractors and mercenaries can be how they are compensated for successful contract completion. It may be possible to distinguish mercenary activity by identifying rent-seeking behavior on the parts of such firms. For example, Executive Outcomes maintained a tenuous relationship with multiple mining companies, such as Branch Energy and Branch-Heritage Group. These connections allowed for Executive Outcomes and its affiliates to realize significant benefits when Executive Outcomes was tasked with securing oil fields in Angola and diamond mines in both Angola and Sierra Leone during its contracts (Butler, 2019). These typically informal connections between Executive Outcomes and extractive resource firms linked this armed private contractor firm with a network of wealthy financiers (Francis, 1999; Pech, 1999). However, this relationship ended in 1998 when Executive Outcomes dissolved in 1998 following pressure from South Africa, the US, and the UN (Butler, 2019; Pech, 1999). This relationship is familiar with the current dynamics surrounding Wagner Group in Syria. Russian companies quietly related to Wagner Group have received lucrative contracts from the Assad regime in Syria following Wagner operations against Islamic State-controlled oil and gas fields, in addition to holding sites in Libya (Mackinnon, 2021).

## 2) *Weapons Acquisition Sources*

Another element can be the source of major weapons platforms acquisitions. While firms such as Blackwater have used heavier equipment such as helicopters in their operations; however, typically they have been restricted to logistical and transportation capacities, or lack mounted weaponry (Mathieu & Dearden, 2006). Two organizations most clearly exceed these levels of militarization: Executive Outcomes and Wagner Group. Executive Outcomes blazed a conspicuous trail for itself in fielding its own air force within the Angolan and Sierra Leone conflicts, fielding Russian military equipment such as the Mi-24 helicopter gunship and a variety of both transport and combat planes, in addition to other transport helicopters (Pech, 1999; Fulloon, 2020). Not only did Executive Outcomes maintain this arsenal; they also facilitated the growth in capacity of the Angolan military, leading to \$2 billion worth of upgrades across both armored ground vehicles and armed aircraft by 1994 (Cleary, 1999). In Libya, Wagner Group forces are in possession of several Russian military Mig-29 and Su-24 jets, either sourced through the Libyan regime from Russia or directly from Russia (Cragin & MacKenzie, 2020). Thus, Wagner is rapidly becoming the contemporary Executive Outcomes. The level of militarization calls into question the origins of such equipment and underlines a muted linkage between state interests and the operations of these organizations, particularly with the more present connections between Wagner Group and Russia.

## 3) *Compliance with International Laws and Norms*

The last, likely most fundamental distinction between armed private contractors and mercenaries considers international law and understandings of what mercenaries are (see Gillard, 2006; Scheimer, 2009). Although I have already briefly discussed the International Code of Conduct Association, Montreux Document, and the standards created by the American National

Standards Institute and ASIS International, as well as the international law around the definition of mercenaries, this is substantively the weakest distinction to be made. Hasian (2011) points out that African regimes may seek to label armed private contracting firms as mercenaries, alongside a lasting anticolonial critique and a history of violence from both mercenaries and armed private contractors. With the Iraq War, nationality could be seen as an indicator of mercenary status, where persons of US, Iraqi, or coalition nationality could be deemed a legal contractor and others might not (Elsea et al., 2008). However, definitions like this certainly do fit into the argument of anticolonial critiques, that Western actors might be given more free range in utilizing armed private contractors than non-Western actors given pre-existing international power dynamics. Given the proliferation of armed private contracting firms globally, there may be a better-defined version of the distinction between contractors and mercenaries should attitudes shift accordingly. On the other hand, other scholars believe that the mere growth of the industry and accompanying gradual regulation has served to distinguish enough between contractors and mercenaries (Swed & Burland, 2020).

### *III. Private Security Companies and Private Military Companies*

Going further into the distinctions between armed private contractors, I illuminate the divergence between private security companies (PSCs) and private military companies (PMCs). Within this discussion, there only appears to be one significant difference and one lesser difference: (1) the range of weapons and equipment utilized, and more notably; (2) the expected threat environment.

With the range of weapons and equipment utilized, it is important to consider that the lowest level of armament for private security firms can be, at minimum, less militarized than private military firms, per their name. Nonetheless, there is certainly overlap. Private security

firms in Honduras, for example, frequently field military-grade weaponry, much to the chagrin of local authorities (Dudley, 2017). Conversely, organizations themselves can maintain both roles. For example, Blackwater provided security within post-Katrina Louisiana (Wilson, 2005; Matthys, 2010). However, the firm is far better known for its operations in Iraq (Mathieu & Dearden, 2006; Singer, 2007; Stanton & Frank, 2020). While firms may operate mine-resistant ambush-protected vehicles in conflict zones, they are less likely to do so in the contiguous US, where there is a lower threat of being ambushed. This divergence leads into the more compelling argument for a distinction between PSCs and PMCs, in terms of threat environment. Roughly speaking, armed contractors working with PSCs should expect to deal primarily with instances of criminal violence, such as in providing maritime security against pirates (Drew & McLaughlin, 2020; Marksusen, 2022). On the other hand, PMCs may be more likely to deal with instances of political violence, whether terror groups in Syria (Mackinnon, 2021) or rebel groups in Colombia (Mathieu and Dearden, 2006), particularly in situations where there is a weak government presence (Matthys, 2010). Again, there is significant overlap in how this materializes in the real world.

For instance, this distinction is constrained due to the propensity of PSCs continuing to operate in contingency operations, or areas of active combat (Joint Warfighting Center, 2010). There are lasting consequences against contractors when a state becomes embroiled in fighting that falls short of a declaration of war, in somewhat of a mismatch of expectations. The responsibility for this mismatch falls both on the state and contractors, but contractors are more likely to experience the real effect. In 2004, a Blackwater convoy drove into Fallujah without any US military support and were ambushed, with four contractors killed in the process (Singer, 2007). The following scene echoed American involvement in Somalia, with their bodies dragged

through the streets and hung from a bridge before the US military began a massive offensive against the city (Pleming, 2007). While Blackwater was allegedly repeatedly warned not to drive into the most dangerous region in the country in unarmored vehicles (Pleming, 2007), both the training and expectations that these contractors maintained contrasted with American military forces nearby (Gallaher, 2012). Overall, labeling organizations as PSCs or PMCs may minimize their perceived exposure in some scenarios while emphasizing their exposure in others, which can be to the detriment of comprehensive analysis.

### *Additional Characteristics*

Alongside these three overarching categorical breakdowns, there are other notable themes within the literature. Compared with previous historical instances of the employment of armed private contractors, there has been a shifting trend to include more non-Western actors. For example, the Russian Wagner Group has been used by the Russian Federation in various conflict zones, from the Central African Republic and Mali to Syria and Ukraine (Giedraitis, 2020). Interestingly, it would also appear that the Russian government actively considers the historical negative experiences of Western armed contractor groups such as Blackwater in how they seek to employ contractors from the Wagner Group in accordance with achieving foreign policy objectives (Adomeit, 2020).

Armed private contractor firms originating from the People's Republic of China have also been increasingly utilized to protect the assets of Chinese companies in various locations within Africa, in addition to protecting Chinese embassies and training several African security forces (Nantulya, 2020). Some attribute a growth in the Chinese armed private contractor sector to reform instituted in the Chinese military in 2016 which led to a sizable portion of military personnel moving into the private sector (Kashgarian, 2021). However, some scholars also

emphasize that Chinese military personnel likely have far less combat experience in contrast with veterans from other countries (Legarda & Nouwens, 2018). This has led Chinese firms to outsource their own security personnel from other countries (Weinbaum, 2022), in addition to retaining the Chinese military itself (Peterson, 2020). Strikingly, Erik Prince, the former force behind Blackwater, now owns a Hong Kong-based firm called Frontier Services Group that provides various support to Chinese businesses in Africa and Asia (Fisher et al., 2018).

In other regions of the world, such as Latin America, there are theorized to be over 16,000 armed contracting firms in operation, employing two million people, and where the ratio of armed private contractors to police can range from upward of 4:1 in Brazil to 7:1 in Honduras (Cooper, 2018). While these forces may be employed for quasi-legal purposes, others are not. Malhama Tactical is a self-proclaimed for-profit private military training company that seeks to train Jihadist fighters (Ardunio & Soliev, 2017). Malhama Tactical has worked with HTS (Office of Public Affairs, 2020), or Hayat Tahrir al-Sham, previously known as the Nusra front, an organization with long-running ties to both the Islamic State in Iraq and al Qaeda in Syria (Soliman 2021). Russian firms are similarly acknowledged to have a frequent relationship with militias, volunteers, criminal organizations, among other local non-state actor groups when they are utilized (Bowen, 2020).

Nearly half of the total \$14 trillion DOD spending on post-9/11 wars was spent on defense contractors, from weapons suppliers to armed private contractors (Knickmeyer, 2021). In fact, the DOD is the armed private contractor's largest customer (Matthys, 2010). US Joint Forces Command released a handbook in 2010 detailing the intricacies of operating alongside armed private security contractors (Joint Warfighting Center, 2010). Such a publication highlights an acknowledgement of the necessity with which warfighters must consider armed

private contractors in operational and strategic planning, as part of a larger, long-term trend. There was also a trade-off established between reductions in US military force structure and the gradually increasing employment of armed private contractors to perform comparable roles (Gambone & McGarry, 2014; Van Oeveren, 2016). The instanced utilization of armed private contractors has proved to be especially popular, with proponents lauding this idea of flexibility (Baum and McGahan, 2009), however, the lasting implications of both endless contingency operations and a workforce constituted of contractors have yet to be seen.

If armed private contractors are going to continually be utilized, it is necessary that international law more clearly define their combatant status (Van Engeland, 2011), whether acknowledging them as combatants or affording them protections in accordance with their civilian status. Otherwise, there will continue to be a gaping hole regarding the rules they are restricted by and how these individuals should be protected in combat situations. The divide between military and contractor can be especially blurred, considering firms such as MPRI are purported to have employed more four-star generals than the Pentagon itself at times (Matthys, 2010). The revolving door between public service and private employment is therefore particularly important in coming to further understand the personnel who make up the armed private contracting industry and the direction it is headed.

### **Future Research, Limitations, Conclusions**

Some cite the breakdown of the bipolar international political system between the US and Soviet Union in acknowledging the contemporary growth in the privatization of security (Mandel, 2001). However, the very degree to which this privatization has occurred can be alarming (Mandel, 2001). In assessing the future of armed private contractors, one must seek to understand both the push and pull factors associated with privatizing security and the use of

force. There is still much research that must occur to holistically understand individual, business, and state incentives for hiring armed private contractors. Similarly, should there be a continued need for the privatization of force, greater understanding must be reached in making sure it is done responsibly and effectively. There are also budding bodies of research that include the nexus of private contractors and the operation of unmanned aerial systems (Clanahan, 2013), cyber warfare (McFate, 2020), in addition to surveying public attitudes toward contractors (Ramirez & Wood, 2019), alongside topics I have already covered. These perspectives will be valuable to further investigate as the nature of warfare and utilization of armed private contractors continue to change into the future.

I want to explicitly acknowledge the limitations of this present paper in assessing distinctions across the armed private contracting industry by utilizing a typology alongside pre-existing terms. While I believe the Singer (2010) typology is extremely useful in discerning between firms with functionalities that span the combat space, this paper only addressed distinctions between armed private contractors with direct proximity to combat. In covering the relationship between armed private contractors and conventional military forces, I sought to delineate the non-state/state actor distinction. In assessing theorized differences between armed private contractors and mercenaries, I sought to highlight the threshold for legality or perceived acceptability. Finally, in assessing private security companies and private military companies, I wanted to dive headfirst into an existing schism that goes either unnoticed or is largely ignored. It is possible that I have produced distinctions that others may see as limited in value, such as discerning between mercenaries and armed private contractors (see McFate, 2020). Nonetheless, it is my hope that some of the included examples can help establish criteria for the acceptable

behavior of armed private contractors, as well as highlighting some of the distinctions and extremities of the industry that have occurred thus far.

Additional limitations into the overall research of armed private contractors involve the sheer opacity of the industry. Armed private contractors are theorized to have initially shifted in usage from covert operations toward conventional practice during the Vietnam War era (Thomson, 2018). However, it is wholly unclear to what extent armed private contractors are employed in covert and clandestine operations in contemporary times. It is therefore extraordinarily difficult to gain a grasp of the extent to which armed private contractors are utilized by states through this nexus. Moreover, this is an industry that highly values privacy at large, from tracking convoy movement to emails (Gambone & McGarry, 2014; McFate, 2019). Thus, while the prospects of startling insight are low, it is ever more important for further research to occur, especially closer to the source.

Lastly, I want to conclude on a final observation from the literature, that armed private contractors are either perpetrators or victims. Many instances of armed private contractor usage are either sensational or sensationalized. Considering how little the general public knows, or can know, about the industry, it makes sense why such a perspective has developed. Nonetheless, it is important to formulate policy around the utilization of armed private contractors that protects contractors as much as people affected by their operations. Not only should the role of armed private contractors be considered in assessing state foreign policy, but their growing influence on the privatization of security and the future of warfare cannot be denied.

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