

# “Privatized” Militarism: A New Era?

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The growth of U.S. militarism over the past few decades appears to have moved beyond the confines of the Pentagon behemoth, with the rapid expansion of corporate warriors – referred to here as Professional Military Contractors (PMCs) – that have taken off with the Bush presidency and its shift toward a “Revolution in Military Affairs”. These “private soldiers”, many regarded as highly-paid mercenaries, now perform a wide range of battlefield, security, and “reconstruction” activities at a time when U.S. armed forces face mounting recruitment crises as combat troops are stretched to exhaustion in Iraq and Afghanistan. PMCs like DynCorp, KBR, Blackwater, and MPRI draw from combat veterans around the world to provide vital military-support, construction, and related functions. Predictably, those who run the PMCs harbor a strong, even fanatical, interest in war, promoting an aggressive foreign policy where U.S. geopolitical ambitions are viewed as being at stake. Such interest is stimulated by a mixture of profit-making and patriotism, infused (for most) with a love of battlefield adventure. A major problem with PMCs, as many critics stress, is their near-total immunity from legal sanctions in countries where they operate – and, to some extent, from established rules of warfare. There is growing agreement that, in the wake of repeated atrocities, PMCs have come to represent an outlaw force beholden to no domestic or global authority.

In the specific case of Blackwater, its fortunes have skyrocketed in the wake of 9/11, the war on terrorism, and the U.S. invasion of Iraq, giving rise to what some call an out-of-control Praetorian Guard in the Middle East and beyond. According to Jeremy Scahill, whose book *Blackwater* has become a celebrated bestseller, winner of several awards, and equivalent to what Bill Moyers calls a “one-man truth squad”, PMCs like Blackwater constitute a dramatic new phase in U.S. military evolution as “privatization” and outsourcing of armed-services functions combine greater flexibility with sharply-reduced political and legal accountability – not to mention skyrocketing corporate profits. (Scahill 2007: xvii-xxii) Thus: “With almost no debate the Bush administration has outsourced to the private sector many of the functions historically handled by the military.” (Scahill 2007: xx) Further, “Private forces are [now] almost a necessity for a United States bent on retaining its declining empire.” (Scahill 2007: xxiv) In a context of military occupation like Iraq, moreover, Blackwater Worldwide (formerly USA) and kindred contractors provide essential infrastructural and security functions, allowing the military to concentrate on combat operations, while the PMCs manage to escape institutional responsibility for actions that are frequently criminal. Since PMCs are largely outside the law – Congressional efforts in 2007 and 2008 to reign them in proving mostly futile – private contractors, often labeled “mercenaries”, can often get away with all kinds of anti-social behavior and human-rights violations leading up to torture and murder. Scahill’s main claim, which deserves more critical scrutiny than it has so far received, is that the rise of PMCs “is an epic [story] in the history of the military-industrial complex . . . [and] a story about the future of war, democracy, and governance.” (Scahill 2007: xxvii)

At the very moment Scahill’s critically-acclaimed book was awash in media attention, a film about the privatization of war, *War, Inc.* – directed by and starring John Cusack – was reaching popular audiences with a message of how corporate greed is corrupting the U.S. military. A low-budget movie, it dramatizes the life and work of a corrupt profiteer named Brand Hauser (played by Cusack) who symbolizes the evil of PMC operatives in the fictional nation of Turaqistan. *War, Inc.* was inspired partly by the gruesome deaths of four Blackwater contractors in March 2004 at the hands of Fallouja insurgents. The film clearly depicts the PMCs as embodying the dark side of warfare. Referring to the privatization of military functions, Cusack says: “Everything is outsourced; everything is for profit. I don’t think people really understand that corporations have privatized the war to the point where the war itself is a cost-

plus business. They are hollowing out the very core functions of what it means to be a government. They're using the State Department as an ATM." In the end, adds Cusack, "they should be sent to prison. They should be convicted. Their ideology should be shamed. We should revolt against them. We should mock them." [1] Indeed mockery is precisely the aim of Cusack's film, a rare departure from the norm of Hollywood war and action movies glorifying violence and combat. Not surprisingly, major studios refused to back *War, Inc.*, which Cusack situates in the tradition of *Dr. Strangelove*.

Looking at Iraq alone, there has been more than enough PMC outlawry and criminality to lend credence to the criticisms leveled by Scahill, Cusack, and others. The most scandalous episode occurred in September 2007, when Blackwater guards were accused of shooting to death 17 Iraqi civilians while protecting a State Department motorcade in Baghdad. Angered Iraqi officials immediately moved to cancel Blackwater's license to operate in the country – the first effort of a government compromised by occupation to assert itself against foreign contractors long accused of horrific acts that were never punished. (Within a few days, of course, the license was reaffirmed.) Since 2003 the PMCs, crucial to U.S. operations at every level, had been subordinate only to their U.S. corporate and government employers, who gave them virtually unlimited scope to work. Iraq national security advisor Mowaffak Rubale said his government should use the Blackwater episode to overhaul private contractors' immunity from Iraqi jurisdiction, granted by Coalition Provisional Authority head L. Paul Bremer in 2003 and later extended – a measure called CPA Order 17, passed outside any democratic process. While many Iraqis demanded Blackwater employees be held accountable for murder, no procedures were in place to do so. In fact PMCs were not even subject to the Universal Code of Military Justice (UCMJ) in Iraq or anywhere else (although Congress moved to correct this problem in late 2007). (Scahill 2007: xxi-xxii)

The September 2007 incident was just one of many where contractors have shot and killed civilians. Despite reports of atrocities, including torture, no PMC employee has been prosecuted in Iraq or the U.S., although they are theoretically accountable to American domestic laws. Witnesses said dozens of people were wounded along with the 17 killed when the Blackwater convoy sped into Nisoor Square in western Baghdad. Although U.S. Embassy and Blackwater officials claimed the convoy had come under fire, Iraqi witnesses reported just the opposite – that no one had attacked the contractors. [2] Based in Moyock, North Carolina and founded by former Navy SEAL Erik Prince, Blackwater as of mid-2008 had nearly a thousand contractors in Iraq, its mission embraced by the State Department and Pentagon. The September 2007 assault was investigated by the Iraq Interior Ministry, which concluded the guards fired on civilians without provocation. Still, the U.S. quickly agreed to allow Blackwater to resume its work in Iraq, thumbing its nose at domestic authorities who, in any case, have little if any leverage in dealing with the heavy-handed American presence.

The State Department contends that PMCs do not require a license from the Iraqi government since their contracts are sanctioned directly by U.S. officials – a peculiar notion for those pretending to bring democracy to Iraq. Even American officials, however, when speaking candidly, admit that previous PMC outlawry in Iraq has been ignored or swept under the rug. "It's one of the big holes we've had in our policy, the lack of control, the lack of supervision over security forces", according to one U.S. diplomat in the field. "No one took on the responsibility of policing these units – neither the military people, nor the regional security office [of the Embassy]. So many people, not just the Blackwater are there in Baghdad unsupervised with basically diplomatic immunity." [3] PMC operations in Iraq have been aptly described as "carte blanche", as in the Wild West, where armed mercenaries are said to roam the land freely. The diplomat said that incident reports amounted to a whitewash, nobody acting upon them, adding that in a few cases PMC managers fired employees for killing civilians, but those same workers could be back in Iraq with another firm in a few months, part of a "revolving door". Observed one security contractor quoted in the *Los Angeles Times*, "They are all untouchable. They've shot up other private security contractors, Iraqi military police, and civilians, often pushing themselves through crowded urban streets in the process." [4] Whether the September 2007 events will turn out to have any restraining impact on PMC behavior remains to be seen.

Scahill describes a series of abductions, killings, and torture at the hands of PMC operatives in Iraq, reminiscent of U.S.-sponsored horrors in Central America during the 1980s. By late 2006, when an average of nearly 1000 Iraqis were being killed weekly, ". . . the big-picture reality was that the country was quickly becoming the global epicenter of privatized warfare with scores of heavily-armed groups of various loyalties and agendas roaming the streets and countryside of Iraq." (Scahill 2007: 289) Groups within the PMCs took on the characteristics of storm troopers, with their own private aircraft, weapons caches, and communications systems. In February 2007, to cite another instance of PMC mayhem, a sniper killed three guards outside the state-run Iraqi Media Network office in Baghdad.

An investigation quickly revealed that Blackwater was guilty, but no one was ever charged much less convicted of what was obviously an attack on a news outlet considered hostile to the U.S. occupation. As usual, everything was kept silent behind a wall of secrecy. One American official even conceded: “Because they [contractors] are security, everything was a big secret. They draw the wagon circle. They protect each other.”[5] Added one Iraqi official: “They don’t have car licenses. They don’t have any names. Nobody knows who they are. If they are asked anyway, they bully people.”[6] The PMCs answer only to their American protectors which, for Blackwater, means the Embassy security staff. Regarded as a pack of criminals by most Iraqis, PMC operatives are understandably viewed differently by the people who run them – as vehicles of peace, democracy, and stability.

When framed against the wide expanse of U.S. imperialism, none of this should come across as particularly surprising. At least since World War II, Pentagon strategy has followed divergent paths. Of course there is nothing new or startling about U.S. reliance on corporate-funded contractors and even mercenaries as the Pentagon, State Department, and CIA have long employed some variant of PMCs. It is true that since the early 1990s the rapid growth of contractors in the field has furnished a crucial supplement to U.S. military activity that increasingly relies on limited troop deployments in accordance with the dictates of technowar – a trend already explored by such writers as Ken Silverstein and Peter Singer. (Silverstein 2000; Singer 2003) Since 1994 the Pentagon has entered into nearly 4000 contracts with U.S. companies, worth more than \$300 billion.[7] One obvious advantage of PMCs over regular military units is loosened oversight and regulation, as mentioned, allowing for greater secrecy and more latitude in violating rules of engagement. Further, since their work is often seen as “constructive” or “humanitarian”, the PMCs typically receive less fallout when things go wrong, although the September 2007 events could ultimately provide a corrective.[8] In Saudi Arabia, MPRI, Vinnell, and DynCorp have trained security forces well known for their use of torture. Based in Falls Church, Virginia, DynCorp has worked closely with the U.S. military in Afghanistan, Iraq, Bolivia, Bosnia, Somalia, Haiti, Colombia, Kosovo, and Kuwait, where it works primarily to train local police and military forces. In Colombia it has helped the army eradicate coca crops and crush rebellions, at times even taking on direct combat roles.[9] DynCorp receives 96 percent of its roughly two billion dollars annually from the U.S. government. Its employees were implicated in the trafficking of women and children in Bosnia during the late 1990s, although no one every faced criminal actions. In Afghanistan the firm came into heavy criticism for aggressive tactics in its training and oversight of local police forces.[10] The situation in Iraq, predictably, has been even worse. In September 2005 General Karl Horst, deputy commander of the Third Infantry Division, complaining about DynCorp and other PMCs, said: “These guys run loose in this country and do stupid stuff. There’s no authority over them, so you can’t come down hard on them when they escalate force . . . They shoot people and someone has to deal with the aftermath. It happens all over the place.”[11]

In May 2007 the American Civil Liberties Union filed suit against a Boeing Company subsidiary accused of facilitating CIA programs involving torture and other abuses. Since 2001 Jeppeson Dataplan, Inc. of San Jose was reported to have provided services to the CIA for its “extraordinary rendition” programs at several locations. According to a suit filed by three plaintiffs, the firm assisted the CIA in more than 70 rendition activities, a charge based on investigations conducted in Spain, Sweden, Italy, and Pakistan. The company was said to be helping exact “confessions” in the war on terrorism. The ACLU went to court under the Alien Tort Claims Act of 1789, which allows foreigners to file suits in U.S. courts for human-rights violations.[12]

Aside from questions of privatization, secrecy, and immunity from prosecution, the PMC hiring of mercenary soldiers (where that takes place) means that personnel killed and wounded do not enter the overall casualty count, keeping these costs of war hidden from public view. Statistics on PMC killed and wounded are elusive at best, one report (in August 2008) estimating more than 1200 deaths.[13] When this reality is added to contractors’ ability to operate largely outside rules of engagement, the logic behind the illegality of mercenaries contained in the Geneva Conventions becomes evident.

Revelations by Scahill, Silverstein, Singer, and others about PMC activity have broadened public awareness about how the U.S. nowadays goes about its military operations. The picture, as we have seen, is not a pretty one. Cusack is surely correct in stating that “what we have here is a protectionist racket” whose managers “should be sent to prison.”[14] And it might be possible, as Scahill argues, that “with an adventurous president in the White House, mercenaries could enable an endless parade of invasions, covert operations, occupations, coups d’etat – all with layers of bureaucratic protections, plausible deniability, and disregard for the will (or lack thereof) of the population.” Scahill 2007: 366)

Yet a central question that arises here is whether Blackwater and kindred military enterprises actually represent a fundamental shift in U.S. military operations – that is, whether they amount to a new phase of modern warfare

and exercise a momentous impact on “the future of war, democracy, and governance” that Scahill claims. Can we conclude, along with Scahill, that “the story of Blackwater’s rise is an epic one in the history of the military-industrial complex”? (Scahill 2007: xxvii) Viewed against the historical backdrop of a U.S. imperialism dedicated to global supremacy, there is ample reason to be skeptical of such arguments. Four sets of issues can be delineated within this line of discourse – privatization, mercenary work, flaunting of warfare laws, and immunity from criminal prosecution. At issue is whether we are witnessing the kind of dramatic transformations in any of these areas of U.S. military activity that Scahill and others insist is taking place.

It is difficult to know what to make of repeated and urgent warnings about the dangers of a “privatized” military according to which PMCs are supposedly remaking the Pentagon landscape. After all, the famous military-industrial complex has been around for many decades, its power historically grounded in a merger of interests – corporate, government, military – and its expensive programs, weapons systems, and deployments made possible through a labyrinthine network of private contracts. Understood thusly, “privatization” is nearly as old as the American military itself, an integral part both of capitalist development and armed-forces traditions. At present we have massive, record Pentagon spending, officially earmarked for “defense” and “security”, all fully supported by Democrats and Republicans in amounts beyond what the rest of the world spends on military force combined. According to *The Defense Monitor*, the total estimated U.S. military budget for 2008 (all programs) comes to a stratospheric \$927 billion, including money targeted for wars and homeland security – more than half of all discretionary federal spending.[15] Most expenditures are routed through the familiar corporate beneficiaries, with Lockheed-Martin (\$37 billion for 2007), Northrop-Grumman (\$23.6 billion), Raytheon (\$19.5 billion), General Dynamics (\$18.7 billion), United Technologies (\$7.7 billion), and General Electric (\$4.6 billion) leading the way, followed by hundreds of smaller contractors reaping super-profits off warmaking and preparations for war. American taxpayers pay for elaborate, high-tech, often useless or redundant Pentagon systems that feed the coffers of such parasitical firms. Weapons systems like the F-35 Joint Strike Fighter (projected at \$300 billion), the F-22 Raptor fighter (another \$65 billion), and new Virginia-class submarines (nearly \$ three billion each), all produced by profit-seeking corporations, would seem to exemplify “privatized” operations long familiar to Pentagon managers. The U.S. commitment to exorbitant weapons programs and other military projects over the next several years figures to reach some \$1.6 trillion, a total certain to rise as American global deployments in the war on terror expand.[16]

Military “privatization” in fact has a long and deep legacy dwarfing anything the PMCs, including Blackwater, currently represent. (Blackwater received about one billion dollars from the State Department in 2007.) Compared to nearly a trillion dollars earmarked for military-related programs in 2008 – not to mention trillions more for future weapons programs – the money spent on PMCs, while noteworthy, is scarcely enough to drive U.S. foreign and military policy or even trigger new alarms. Nor, for the most part, does it depart radically from established patterns. Writing as early as 1935 (and referring to World War I), General Smedley Butler commented that for the U.S. “war is a racket [and] always has been”, with corporations like DuPont, Bethlehem Steel, and Anaconda Copper reaping profits at roughly ten times their previous levels. According to Butler, a World War I marine hero, at least 21,000 new millionaires and billionaires were created by the Great War, capitalizing on the drive to “make the world safe for democracy”. (Butler 2005: 23) Later, books like C. Wright Mills’ *The Power Elite* (1956), Fred Cook’s *The Warfare State* (1962), and Seymour Melman’s *Pentagon Capitalism* (1970) would offer historical and theoretical perspective on the growth of an unprecedented corporate-military behemoth — the very topic that preoccupied President Eisenhower in his famous 1961 farewell address. The notion of a “privatized” military where corporations, the state, and the Pentagon forged a seamless whole, most systematically laid out in Melman’s *The Permanent War Economy* (1985), had become a durable element of American life. Since the U.S. had long been a state-capitalist society with a growing armed-services bureaucracy, all this was to be expected. Moreover, as the American postwar global presence expanded, it naturally followed that superpower economic, political, and military agendas would be advanced and consolidated in tandem. After all, by 2006 the U.S. had amassed more than five trillion dollars in overseas investments while accounting for some two trillion dollars in foreign trade yearly; its networks of finance, commerce, and trade ringed the planet, as did its system of military bases, deployments, and high-tech operations designed to protect corporate globalization.

In this context the Pentagon has emerged as a central fixture in the development of modern U.S. capitalism to the extent that, as Melman long ago observed, “a modern military budget is a capital fund.” (Melman 1988: 9) Members of Congress are with few exceptions beholden to this system of “privatized” military goods and services, ready to support gargantuan Pentagon budgets in return for campaign funds and local boondoggles awarded to firms like Raytheon, General Dynamics, Lockheed-Martin, Honeywell, and Northrop-Grumman ostensibly for jobs and

“growth”. In 2005 more than 35,000 lobbyists plied their trade in Washington -- 65 for every Congress member. As Chalmers Johnson notes, this form of “privatized” Keynesian militarism amounts to nothing less than full-scale corruption of the legislative branch. (Johnson 2007: 266) Blackwater and other PMCs were of course late arrivals to the kind of racketeering that Smedley Butler anticipated many decades ago.

Scahill, Cusack, and other critics might want to stress the unique role of PMCs in providing military-support personnel for U.S. operations – that is, a more specific but rather limited realm of “privatization”. They have a point. However, the distinction between goods/services and personnel can easily be exaggerated since government functions typically overlap in many ways – for example, in the areas of training, logistics, and security. Corporations like Blackwater, DynCorp, and KBR carry out security, logistical, food, medical, transport, maintenance, and various technical services indispensable to troop support on the battlefield and elsewhere, as well as embassy protection and various construction tasks. The PMCs deploy battalions of lobbyists to help secure contracts, charge exorbitant rates for their work, and reap superprofits in the process. What, then, about a more conventional “private contractor” like Raytheon – in 2007 the fifth largest recipient of Pentagon funding? This established military contractor has some 73,000 employees, annual revenues of \$20 billion, and six major business divisions producing information systems, surveillance networks, technical services, homeland-security supports, electronics for space and missile-defense systems, and logistical programs. Raytheon is a prolific manufacturer of missiles, including the Tomahawk, Maverick, Sidewinder, Patriot, Sparrow, and Hawk series widely deployed in the Middle East. Like many PMCs, it trains military personnel around the world. Raytheon has contributed tens of millions of dollars to electoral campaigns and lobbies heavily for its favorite expensive programs. In 1999 the corporation was targeted by several class-action lawsuits over false claims about 1997 and 1998 revenues, paying out \$410 million in settlements.[17] Like bigger contractors such as Lockheed-Martin and Boeing, Raytheon has for many decades sunk deeper into the swamp of military racketeering or “privatization” than more recent, smaller, claimants like Blackwater.

What can be said, then, of the familiar PMC image as bastion of mercenaries running amok in Afghanistan, Iraq, Colombia, and other locales? The stories of well-armed, out-of-control fascist goons, shooting up neighborhoods in Baghdad and elsewhere, are by now well-known. The September 2007 Blackwater episode was surely no isolated case, although the full account of PMC-caused mayhem will probably never be known. Yet while the PMCs are shamelessly reaping huge profits off the war and occupation, the label “mercenary” – generally applied to freewheeling combat troops for hire – has been liberally overused and exaggerated by Scahill and others. Virtually all of the PMC employees working in Iraq (more than 100,000 as of mid-2008) serve in various troop-support capacities, as security for the State Department, or in construction work. While private contractors are often armed, there are no PMC combat units as such in Iraq or anywhere else, although some battlefield activity has been reported in Colombia. The vast majority of PMC workers is well-trained, highly-skilled, and dedicated to American military agendas – a picture at odds with the familiar opportunistic “soldier of fortune” participating in many wars. Although PMCs obviously contribute human labor-power to U.S. imperial ventures, they rarely do so as part of any elaborate “mercenary” operations. (This is a crucial point when one considers the subtitle of Scahill’s book: “Rise of the World’s Most Powerful Mercenary Army”.)

The question of mercenary involvement is admittedly murky, especially given the blurred distinction between combat and noncombat or support roles in the field. The main task of PMCs is to free military forces to concentrate more fully on battlefield challenges. Interestingly, although international law prohibits the use of mercenaries as soldiers, it has no problem with private contractors in their support capacity even where, as in Iraq, they clearly bolster combat effectiveness. At different times and places, however, PMCs have helped to organize and train mercenary troops for military action in support of U.S. operations. Thus MPRI, working closely with the Pentagon, funded and trained a motley assemblage of Balkan troops involved in a series of bloody offensives against Serbs in 1995, including Operation Lightning Storm that killed hundreds of people and forced another 200,000 from their homes. PMCs in former Yugoslavia assisted militia groups that often paid little heed to rules of engagement. Even here, however, it would be incorrect to say these were privately-organized mercenaries insofar as U.S. government and military forces were deeply engaged in all phases of the work.

Washington “mercenary” activity of this sort in Central America throughout the 1980s was far more extensive than anything in the Middle East and Balkans. In Guatemala, Honduras, Nicaragua, and El Salvador the U.S. invested billions of dollars to fund, train, and organize local militias – essentially death squads – that relied on a combination of Pentagon, CIA, and private assistance. The barbaric legacy of the Contras in Honduras and Nicaragua is well known. Recruited from several countries, they carried out mass killings, torture, forced incarceration, and other atrocities at the behest of their Washington masters. (Whether this came from government, private, or combined

government-private support seems entirely secondary.) Many death-squad leaders and operatives were trained at the infamous School of the Americas located at Fort Benning, Georgia. In general the label “mercenary” seems more applicable to Central America in the 1980s (and surely before) than to anything that came later in Iraq – but even here it has limits.

The claim by Scahill and others that PMC operatives in Iraq, among other locales, are often gangs of reckless, shoot-first thugs, while true enough, has been greatly exaggerated against the general backdrop of battlefield horrors. The notion that PMCs in Iraq are somehow particularly guilty of war crimes and human-rights abuses – or that their record is worse than that of regular U.S. troops – does not stand the test of evidence. Moreover, oft-repeated assertions that PMC guards and other support personnel have carte blanche to flaunt rules of engagement, again factual to a degree, misses a crucial point: American troops have long skirted or violated such rules with impunity despite being subject to the UCMJ and constraints of international law. While government oversight of PMCs is lax where it exists at all, opening the door to wanton criminality, formal oversight of Army, Marine, and Air Force operations has never meant that rules of engagement would be followed strictly or consistently. During 2005-07 Blackwater employees alone were reported to be involved in some 200 shooting incidents (including the September 2007 outburst), many under cloudy circumstances; more than 50 people were fired and sent home. The number of violations could surely be multiplied several times when the actions of all PMCs are finally taken into account – a terrible record indeed. As instruments of U.S. militarism, there can be no defending the private contractors, in Iraq or anywhere else.

Yet compared to the barbaric policies and actions of the U.S. military itself, the PMC record must be considered peripheral to the larger history. It is worth remembering that the U.S. invasion and occupation of Iraq was itself illegal, a crime against peace, meaning that five years of death, destruction, and chaos can be laid squarely at the doorstep of Washington. The entire criminal enterprise has brought daily, virtual routine, horrors and misery to the Iraqi people: takeover of national institutions and resources by force, mass killings, torture, exiled populations, infrastructure devastation, large-scale arrests and detentions, use of inhumane weapons (depleted uranium, white phosphorous, anti-personnel and blockbuster bombs), local atrocities against civilians. Total Iraqi casualties (dead and wounded) have been estimated to reach as high as one and a half million (mid-2008), with another three million people forced from their homes. In November 2004 the city of Fallouja (population 350,000) was almost totally destroyed by the U.S. military, with hundreds killed, the urban infrastructure decimated, and most inhabitants forced to flee – a major war crime by any calculation. Iraqi civilians are regularly attacked by armed-forces vehicles, aircraft, and ground troops at checkpoints, while driving their cars, or tending to other daily business, the victims usually dismissed as “terrorists”. Such violent outlawry has taken place in full disregard of the United Nations Charter, Geneva Conventions, and even UCMJ guidelines. And it has been entirely government planned, organized, funded, and implemented, courtesy of American taxpayers’ largess, no reservations or apologies offered. The problem here was not so much lack of oversight but precisely the opposite – the systematic and painstaking oversight wrought by a deliberately criminal venture.

The claim, moreover, that “mercenaries [PMCs] could enable an endless parade of invasions, covert operations, occupations, coups d’etat” seems equally far-fetched. A quick review of recent history shows that the U.S. government itself (with no help from PMCs) has been restlessly active in pursuit of these activities for many decades. The list of postwar U.S. interventions abroad – and war crimes associated with them – is much too lengthy to detail here. None have ever been driven by distinctly “private” operations or the work of “mercenaries”. Even in Iraq, the buildup to war was prepared by more than a decade of subversive (and illegal) activities — espionage, covert actions, bombings, and so forth – all conducted by the State Department, Pentagon, CIA, and NSA, with no direct “private” involvement. (Hiro 2002: chs. 5 and 6) The same applies to all postwar U.S. interventions. In 1947 the National Security Act placed the CIA under the direction of the National Security Council, which requires no Congressional approval of its decisions or actions. The laws of warfare are largely irrelevant to its functioning. The CIA was, in Chalmers Johnson’s words, “turned into the personal, secret, unaccountable army of the president.” (Johnson 2006: 93) Its covert actions throughout the postwar years have been mostly secret, including the setting up of local militias and death squads, support of rightwing dictatorships, overthrow of sovereign governments, and practice of “extraordinary rendition” (torture) initiated at the highest levels of government. Since the early 1950s, as Johnson notes, “the CIA has belonged as much to the president as the Praetorian Guard once belonged to the Roman emperors.” (Johnson 2006: 95) A vast source of unchecked power, the CIA has been matched if not exceeded by the (even more secret) power of the NSA with its virtually unlimited capacities of electronic surveillance and intelligence. (Bamford 2005: part III) In the historical context of such imperial mayhem, the role of PMCs has been essentially marginal.

When it comes to the issue of immunity from prosecution, the case against PMCs would seem to be especially airtight: the image of out-of-control storm troopers shooting up Iraqi neighborhoods resonates in tales about Blackwater and other contractors. After all, the PMCs operate largely beyond the reach of the UCMJ, Iraqi domestic courts, and international law while their status before American courts seems ambiguous. Efforts by Congress (in September 2007) to bring PMCs under UCMJ jurisdiction, while formally successful, appear so far to have made little headway in the field. Despite hundreds of reported violent incidents in Iraq alone, no PMC employees have been prosecuted although dozens, as we have seen, were fired and sent home. The general understanding is that “privatization” allows for untrammelled barbarism with impunity.

That image is valid enough, as far as it goes. Criticisms of PMC immunity seem to imply that “private” workers have a special license to flaunt the law – that comparable behavior by Army or Marine troops is unlikely given possibly severe legal consequences, or in the event it did occur, harshly punished. History does not support this fanciful assumption, however, not only in Iraq but in any theater of U.S. military involvement, going back at least to World War II. First, there is simply no likelihood that American personnel of any type would be subject to prosecution in local courts. Second, the same applies to international law: there is no record of U.S. government or military violators having been brought to justice for war crimes before a global tribunal and, moreover, Washington rejects the International Criminal Court on grounds its personnel could never receive fair treatment. Third, military crimes committed during warfare are rarely if ever prosecuted in American domestic courts. That leaves the UCMJ, according to which criminal violations are brought before military court-martial procedures – meaning, in effect, that the U.S. armed forces are policing, judging, and punishing their own subjects. In other words, the American military itself ends up as prosecution, judge, and jury concerning rules of engagement and other potential crimes. And the historical record, spanning World War II, Korea, Vietnam, Central America, Afghanistan, and Iraq has been nothing short of abysmal, an embarrassment to norms of legality.

The story of unpunished U.S. war crimes in Korea and Indochina alone – entirely the product of organized and supposedly monitored armed-forces units – would require several volumes to cover adequately. (Blum 2000: 125-67) In Iraq the situation has been notably terrible: as in earlier wars, criminal behavior has been uniformly ignored or covered up or, where that fails, justified with little fear of legal or moral sanctions. Rules of engagement have typically been viewed with cavalier disdain by high-level officers as well as troops in the field, in some degree the logical result of counterinsurgency operations where combatants and civilians cannot always be easily distinguished. Mostly, however, it has been the nightmare wrought by aerial warfare – often taken to extreme levels by U.S. commands – that accounts for huge civilian casualties routinely viewed (by U.S. decision-makers) as the inevitable, yet necessary, cost of high-tech warfare. (The U.S., joined by England, ensured that such crimes would never be brought before the Nuremberg Tribunal after World War II.) Barbarism from the air, even when carried out by inhumane weapons, has never been punished under any legal jurisdiction, though it usually amounts to wanton destruction of civilian targets according to the Geneva Conventions. At the same time, American ground attacks in such theaters as Korea, Vietnam, and Iraq have typically skirted rules of engagement, leaving an enormous legacy of atrocities, torture, POW killings, wanton destruction, chemical warfare, forced relocations and imprisonment, and support for death squads – all egregious violations of international law, with few perpetrators ever subjected to prosecution and fewer yet found guilty or given lengthy sentences. Anyone doubtful of such American military behavior should consult the Winter Solider hearings of 1971, featuring extensive testimony about Vietnam horrors spanning many years – hearings repeated in 2007, this time in connection with Iraq. The few U.S. war crimes that were duly prosecuted generally targeted lower-level offenders while ignoring higher-level culpability that in many cases goes all the way to the Pentagon and White House. And even these limited prosecutions (as at My Lai, Haditha, and Abu Ghraib) were mostly forced on the military after shocking revelations made by independent journalists.

In Iraq, where Blackwater and other PMC personnel enjoy immunity from prosecution, few U.S. troops have been prosecuted for crimes that have far exceeded anything attributed to the PMCs. As with My Lai in Vietnam, the well-known instances of torture at Abu Ghraib prison stand out as exceptional, brought to light by media exposes after being dismissed or covered up by the military. Several low-level prison guards were tried and convicted, a few receiving stiff sentences, while officers in decision-making positions (not to mention Washington officials) never faced legal consequences. Similar operations in Iraq and Afghanistan were spared criminal sanctions. Even more illuminating is the case of Marine atrocities at Haditha, on November 19, 2005, where 24 defenseless Iraqi civilians were slaughtered in the aftermath of a roadside bombing. This episode came to light thanks to a Time magazine report of March 16, 2006, after prolonged military efforts to cover up the atrocities. Shamefully, six of eight Marines charged had their cases dismissed at court-martial while a seventh, Lt. Col. Jeffrey Chessani (the highest-ranking

officer accused) was exonerated by a military judge at Camp Pendleton. Only one defendant remained – Lt. Andrew Grayson – accused not of murder but of dereliction of duty.[18] Coverups made it virtually impossible to prosecute serious offenses. Here as in many other cases the much-hyped “rules of engagement” failed to protect Iraqi civilians from murder at the hands of American occupying troops.

In yet another instructive episode, a Marine hearing officer at Camp Pendleton recommended against court-martialing Sgt. Johnny Winnick for manslaughter and assault in the shooting deaths of two Syrians and the wounding of two others in Iraq. Instead, the process was to involve nonjudicial punishment for dereliction of duty, leading to nothing more than a demotion and reprimand. In June 2007 Winnick opened fire on Syrians whose truck stopped near the Lake Tharthar region, continuing to shoot even after the men were down and incapacitated. No evidence was presented that the four men were planting a bomb, as Winnick claimed. Prosecution would have followed the charge that Winnick violated rules of engagement requiring “positive identification” that someone is committing a “hostile act” or has shown “hostile intent”. At the preliminary hearing in Camp Pendleton, a defense expert successfully argued that rules of engagement are inevitably vague and confusing to frontline troops – even though, in this instance, the Syrians had already been rendered defenseless. One of Winnick’s attorneys, Daniel Conway, said: “Our Marines deserve the benefit of the doubt when they make good-faith decisions to use force in self-defense during combat. Sgt. Winnick is a standup Marine, and he’s eager to get back to work.”[19] Of course the idea that “good-faith decisions” are being made in “self-defense” could be made for troops under virtually any battlefield circumstances. The point here is that, on the ground, levels of “immunity” in Iraq extend as much to regular military troops as to PMCs.

Horrific as they might be, therefore, no evidence is available to suggest the PMCs represent an epic transformation of the U.S. military, although their contributions to American geopolitical ambitions obviously deserve notice. In fact their operations depart little from business-as-usual in the maintenance of Empire. The notion that private contractors embody unique forms of outlawry, primarily as wayward mercenaries, makes little sense when viewed in the larger historical context of U.S. military interventions. The PMCs constitute yet another vehicle of American imperial objectives – a vehicle, moreover, not always known for its efficiency and reliability. Aside from their role in providing non-military supports for government and armed-forces work in the field along with construction, the general significance of PMCs – including the argument they are harbingers of new “privatizing” trends -- has been dramatically overstated by Scahill and others. The pattern of U.S. imperial ventures is nowadays, as before, set at the very top of officialdom and marked by political continuity.

Zeroing in on new threats of military privatization, Scahill argues that Blackwater and kindred contractors have built a “permanent institutional presence for themselves within the structures of the state.” (Scahill 2007: 373) Perhaps, but what is so remarkable about such a development against the backdrop of a long-established military-industrial complex? It would be outlandish to suggest that, with a Pentagon budget now approaching one trillion dollars, that the PMCs might be in a position to subvert government control of the armed forces or its capacity to plan and carry out military ventures. In foreign policy it has become a truism that corporations, government, and military work closely in tandem to pursue U.S. global interests – a truism that seems to carry more rather than less weight over time. In fact it was C. Wright Mills, writing in 1956, who first clearly illuminated the problem, noting that “during World War II, the merger of the corporate economy and the military bureaucracy came into present-day significance.” (Mills 1956: 212) Since then, at least, the idea of a separate military economy – or indeed separate government – has amounted to nothing but fiction.

The issue of PMC involvement in Pentagon and State Department work naturally commands interest, and Scahill’s book (like those of Silverstein and Singer) has provided a great service here. At the same time, nothing done by private contractors really changes the face of American capitalism, militarism, or imperialism. Whether these destructive forces on the world scene are advanced by “government” or “private” interests – or some combination of these, as has always been the case – seems largely irrelevant. More crucially, insofar as U.S. international behavior has long been infected by pervasive elements of outlawry and criminality, where then is the peculiar scandal associated with the PMCs? In the final analysis, are we not dealing with just another extension of the Pentagon war machine rather than some new out-of-control monster?

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## Endnotes

1. Los Angeles Times (May 23, 2008).
2. Los Angeles Times (September 18, 2007).
3. Los Angeles Times (September 18, 2007).
4. Los Angeles Times (September 18, 2007).
5. Los Angeles Times (September 21, 2007).
6. Los Angeles Times (September 21, 2007).
7. [http://www.en.wikipedia.org/wiki/Private\\_military\\_contractor](http://www.en.wikipedia.org/wiki/Private_military_contractor).
8. Silverstein, *Private Warriors*, pp. 172-73.
9. [http://www.en.wikipedia.org/wiki/Private\\_military\\_contractor](http://www.en.wikipedia.org/wiki/Private_military_contractor).
10. *Ibid.*
11. *Ibid.*
12. Los Angeles Times (May 31, 2007).
13. Los Angeles Times (August 14, 2008).
14. Los Angeles Times (May 23, 2008).
15. See *The Defense Monitor* (March/April 2008).
16. Source for the 2007 private contractors' figures is: [http://www.defensenews.com/static/features/top100/charts/rank\\_2007](http://www.defensenews.com/static/features/top100/charts/rank_2007).
17. <http://www.en.wikipedia.org/wiki/Raytheon>.
18. Los Angeles Times (June 14, 2008).
19. Los Angeles Times (July 15, 2008).

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