

https://dspace.org/

Private Military Companies and the

Fowkes, David Charles

2006-10-31T11:19:44Z
http://hdl.handle.net/10539/1531

Downloaded from a DSpace repository. https://dspace.org/

CONCLUSIONS

Two Faces of the PMC Debate

There are really two debates about private military suppliers. As Irving Kristol wrote about Vietnam in 1967,

> What we are witnessing is no mere difference of opinion about foreign policy, or about Vietnam. Some differences of opinion do exist, of course. Some of the most articulate critics believe that the United States has … unthinkingly accepted world responsibilities which are beyond its resources and … have only an illusory connection with the enduring national interest. But right or wrong, *this* debate is largely irrelevant to the convulsion that the American intellectual community is now going through – even though occasional references may be made to it, for credibility's sake. One does not accuse the President of the United States and the Secretary of State of being 'war criminals' and 'mass murderers' because they erred in estimating the proper dimensions of the United States' overseas commitments. And it is precisely accusations of this kind that are inflaming passions…[1]

What *we* are witnessing is one rather sober discussion about the advantages, pitfalls and proper extent of private security, and another passionate, even Manichean uproar over 'mercenaries.' If you agree that, "In the end, meeting security needs with private military solutions is not necessarily a terrible or impossible thing,"[2] then you are part of the first debate. If you feel that, "Private military companies are nothing but the old poison of vagabond mercenaries in new designer bottles,"[3] you probably subscribe to the second. If PMCs are poison we should not be considering how much to take; so this dispute pre-empts the other one. But are they really so noxious?

---

[1] Kristol, I. "American Intellectuals and Foreign Policy" in Neoconservatism, Elephant, Chicago, 1999, pp. 76 – 77
[2] Singer, P.W. "The Private Military Industry and Iraq: What have we learned and where to next?" Op. Cit. p. 26
[3] Musah, A-F, & Fayemi, J.K. Op. Cit. p. 264

There is broad consensus that mercenaries are wicked people. This explains industry enthusiasm for the term PMC, and the insistence that they are not mercenaries. Critics make the contrary assertion, and they clearly mean to de-legitimise PMCs. This perpetuates a useless debate. We are never going prove conclusively that PMCs are or are not 'mercenaries.' In fact, the term is largely useless. The Oxford English Dictionary's definition of a mercenary is 'a professional soldier hired to serve in a foreign army' – but the adjectival use, when you describe someone as mercenary, means 'primarily concerned with making money at the expense of ethics'. The term has picked up powerful moral connotations. Such words, that combine description with moral judgement, are quite common. The word 'freedom,' for example, describes certain conditions, but people invariably invoke it to applaud them. Calling a country 'free' or 'un-free' is not a neutral claim, like saying that its flag is blue and yellow. It is a moral judgement. I*f 'mercenary' contains an implicit moral judgement, is it a justified one?* There is some compelling evidence that mercenaries are evil. 'Colonel' Callan, who earned himself infamy and a death sentence in Angola, is a case in point. Similarly, *Les Affreux* (the terrible ones) of the newly independent Congo surely deserved the name. Their successors in the 'White Legion' were no better. There is also no shortage of vicious war dogs in the historical record preceding the twentieth century. These cases inspire the claim that, "Individuals who are prepared to participate in foreign military initiatives for money [are] the worst human predators of our time.[4] Yet, this popular conclusion simply ignores the famous counter-examples that emerged after the Cold War (and some earlier ones as well).[5] These cases suggested that mercenaries could, in fact, do noble work, and do it well. As the *Times* journalist Sam Kiley wrote from Sierra Leone, after Executive Outcomes had left and the war had recommenced in a frenzy of hideous atrocities, "The redeployment of mercenaries in this blighted nation would be an act of genuinely ethical foreign policy."[6] How did these polar opposite views develop?

---

[4] Stones, C. & Earl-Taylor, M. "Letter from Grahamstown: Tough South African Legislation Clips the Tails of the Country's 'Dogs of War'", www.gig.org, 22 October 2004, p. 1

[5] *As one writer comments, "Why not call a mercenary a mercenary and let these characters take their place in a colourful and not dishonourable tradition?" He mentions Xenophon and Sir John Hawkwood (one of the leftover soldiers from the Hundred Years War) as exemplars of this tradition. See* Keleny, G. Op. Cit. p. 47

[6] Shearer, D. "Privatising Protection" Op. Cit. p. 29

Up until the 1990s, the private military industry was quite conveniently divided. On the one side were private military companies, discreetly providing various services-short-of-war to governments, corporations, international organisations and NGOs, free of any specific regulations (bar some quite lenient ones in the United States). On the other side were dogs of war, with a long and exciting record of fighting for causes that were good, bad and complicated. These mercenaries were the targets of various strict national and international laws, which gave legal expression to widespread moral disapproval.

In the 1990s three things happened. Classical mercenary activity persisted; ordinary PMCs started to do a lot more business; and companies like Executive Outcomes dramatically crossed and obscured the neat line between the two categories. It would be hard to devise a thought experiment better suited to disrupt settled convictions on mercenaries than Executive Outcomes. The organisation consisted of former members of the apartheid regime's elite security services. Its founder, Eeben Barlow, had been deputy-commander of the 32nd Battalion, the unit with the highest kill ratio in the SADF.[7] After that, he worked for the Civil Cooperation Bureau, "the front for a covert assassination and espionage unit, used to eliminate enemies of the apartheid regime abroad."[8] The company did not even try to make delicate distinctions between fighting and helping others to fight; it unashamedly contracted to make war. *The Economist* put it memorably: "They sound like a bunch of Boers doing a spot of old-fashioned kaffir-bashing."[9] Indeed. Yet, their actions won them praise, like this sincere tribute from a Sierra Leonean: "They saved us. They are saints!"[10] Unlike conventional mercenary bands, EO was public and professional. It insisted that it only served legitimate governments, and although those can be hard to define, in practice it did at least only serve governments. Most importantly, it won military *and* moral victories, by quickly and decisively beating opponent who enjoyed minimal sympathy at home or abroad. Furthermore, Executive Outcomes achieved these things at the same time as the international community was botching interventions (Somalia) or failing to intervene where intervention was desperately needed (Rwanda). As a result,

[7] Shearer, D. "Dial an Army" The World Today, London, August/September 1997, Vol. 53, Issue 8-9, p. 203
[8] Singer, P.W. Op. Cit. p. 102
[9] 'We're the good guys these days" The Economist, London, 29 July 1995, Vol. 336, Issue 7925, p. 32
[10] *Cited in* Singer, P.W. Op. Cit. p. 103

not only did it receive more praise than any 'mercenaries' had enjoyed since Louis XVI applauded the loyalty of his Swiss guards in 1792; the notion even grew that private companies like EO should be contracted to perform UN missions. Here was the ultimate challenge to established convictions: were firms like Executive Outcomes, to use Doug Brooks's provocative phrase, "Messiahs or Mercenaries?"[11]

Privatising Peacekeeping

This problem inspired a fair bit of discussion. The case for the United Nations hiring mercenaries was always an argument for using what worked: UN missions either did not happen or did not perform very well, usually owing to a lack of skilled and well-equipped UN forces. (The West had the skills but not the will to use them; poorer states were the opposite.)[12] Executive Outcomes was good at what it did, and inaction had terrible consequences: a great many people killed, maimed or displaced, and usually a whole region destabilised.[13] Mercenaries were also a lot cheaper: EO charged $35 million (and got $15.7 million[14]) for its two-year operations in Sierra Leone; the UN mission came in at $500 million per year.[15] Of course, the two were rather different deployments, but the gap is still vast. Privatising would almost certainly save money. As Gaurav Laroia and Doug Brooks wrote in *The National Interest*, "Private sector services costs the UN 10-40 percent of what it costs for similar state-provided services…"[16] Private firms are cheaper thanks partly to competition, but also because, "It is significantly cheaper to 'rent' expertise and equipment from companies than it is for militaries to attempt to maintain them for years or decades."[17]

---

[11] Brooks, D. "Messiahs or Mercenaries?" International Peacekeeping, Vol. 7, No. 4, 2000, p. 129
[12] Landsberg, C. "Willing but Unable: Small States and Peacekeeping in Africa" in Cilliers, J. & Mills, G. From Peacekeeping to Complex Emergencies, SAIIA & ISS, Johannesburg & Pretoria, 1999, p. 45; Tepperman, J.D. "Unvanquished: A U.S.-U.N. Saga" Foreign Affairs, New York, September/October 1999, Vol. 78, Issue 5, p. 164
[13] Cooper, R. The Breaking of Nations, Atlantic Books, London, 2003, p. 66
[14] Avant, D. Op. Cit. 2005, p. 90
[15] Corcoran, M. Op. Cit. p. 1
[16] Brooks, D. & Laroia, G. "Privatized Peacekeeping" The National Interest, Washington, Summer 2005, Issue 80, p. 121
[17] Loc. Cit.

This case came under a few attacks. First, critics objected that despite EO's many military successes, it ended no wars, but only muted them for a while. Second, some proffered the theory that force alone cannot forge sustainable peace. Third, they contended that ordinary UN peacekeeping costs more because it does all the extra things needed for long-term stability.[18] These three arguments are versions of the claim that privatised peacekeeping would not be effective. There was also a subtler attack: that the bigger problem with UN peacekeeping was the vague or weak mandates, and the failure to authorise interventions. Privatisation, therefore, would make little difference, because private providers would still not be allowed to do the job, even if they were capable of it.[19] Furthermore, private peacekeeping would be resisted by many poorer states. Although Western nations now shun peacekeeping missions – preferring to pay others to do the fighting – poorer states often welcome them, because "Peacekeeping operations give these militaries money and prestige and sometimes keep them afloat."[20]

These are interesting arguments, and neither side seems to emerge from the debate victorious. Both sides can also refine their position. Privatisation-partisans can argue that PMCs with skilled, disciplined and well-equipped staff can do part of the job at least part of the job better than Third World forces, creating the conditions for peace. They may also defend the view that violence begets peace. As David Shearer has pointed out,

> Recent empirical studies [show that] outright victories, rather than negotiated peace settlements, have ended the greater part of the twentieth century's internal conflicts. Combatants in Angola, Bosnia, and Sierra Leone consistently resisted a negotiated, consent-based settlement. There appeared to be little chance of a breakthrough until more coercive measures were applied.[21]

---

[18] Olonisakin, F. "Arresting the Tide of Mercenaries: Prospects for Regional Control" in Musah, A-F, & Fayemi, J.K. Op. Cit. p. 235
[19] Avant, D. "Mercenaries" p. 20
[20] Loc. Cit.
[21] Shearer, D. "Outsourcing War" Op. Cit. p. 68 *The precise findings of the study are that, "Between 1900 and 1980, only 15 per cent of civil wars ended by negotiation; the remaining 85 per cent were concluded by one side winning."* Shearer, D. "Dial an Army" Op. Cit. p. 203

However, peacekeeping will almost certainly not be privatised. The reason for this is not that the arguments against it are overwhelming. It is that ideas live and die in history, and history has given its verdict, even if right reason has not. For the UN, using 'mercenaries' would be a big and difficult step. Kofi Annan is right: "The world may not be ready to privatise peace."[22] The power of this comment is the recognition that privatised peacekeeping is not in line with the intimations of the era;[23] it does not fit the persona of the United Nations. This is not much of a reason, and it is certainly not a trump card for the PMC-sceptics. However, it is only when an entrenched system fails in spectacular fashion that is it replaced; otherwise, its imperfections are tolerated and repaired, and the critical mass needed to change it never accumulates. This means that ordinary peacekeeping will have to cover itself in shame to be replaced. As Doug Brooks understood in 2002,

> Bias against PMCs … will probably last until the problems faced by current UN peacekeeping operations in Sierra Leone and the Democratic Republic of the Congo (DRC) are played out. These two operations could make or break standard UN peacekeeping policies. Current indications are that those policies are not likely to meet with long-term success in light of the complex situation and quality of the peacekeeping participants…[24]

In 2006, we have the evidence to make a judgement, and that judgement is favourable favours the status quo. In Sierra Leone, the UN mission has pulled out because its job is completed.[25] The country is still terribly poor, but it is peaceful, and it has a democratically elected government.[26] In the Congo, the UN has just overseen the most complex vote in the world body's history, a referendum on a new constitution,

---

[22] *Cited in* "Private Military Companies: Options for Regulation" Op. Cit. p. 19 *Although one wonders whether that is true, and so Kofi Annan said it; or if Kofi Annan said it, and it therefore becomes true. Matters like the world being 'ready' can come down to leadership.*

[23] *This use of the word 'intimations' comes from Michael Oakeshott, cited in* Kristol, I. Op. Cit. p. 266

[24] Brooks, D. "Messiahs or Mercenaries? The Future of Privatised International Peacekeeping" Op. Cit. p. 7

[25] Nichols, H. Op. Cit. p. 1; Pan, E. "African Peacekeeping Operations" http://www.cfr.org/publication/9333/#2, 2 December 2005, p. 1

[26] "AS PEACEKEEPERS DEPART SIERRA LEONE, NUMEROUS CHALLENGES REMAIN: UN OFFICIAL" http://www.un.org/News/briefings/docs/2005/051003_Mwakawago.doc.htm, New York, 3 October 2005, p. 1; Lederer, E.M. "As U.N. peacekeepers prepare to leave, Sierra Leone faces poverty, illiteracy and unemployment" AP Worldstream, 4 October 2005, p. 1

described by *The Economist* as, "A giant leap in the right direction."[27] There have been other successes, too – such as the recent Liberian elections.[28] Not that these efforts have been free of failures and scandals.[29] If 'mercenaries' had been responsible for the sex crimes and indulgences that have marked recent peacekeeping projects, the uproar would have been unending.[30] But UN peacekeepers do not carry the mercenary stigma, so the outcry was bearable.[31] The fundamental fact is that ordinary UN peacekeeping *is* quite effective. As Gareth Evans tells us, in a recent article headed 'Peacekeeping doesn't make news, but it works':

> For every roadside bomb in Baghdad, international peacekeepers in places such as Bosnia, Kosovo, East Timor and Sierra Leone have quietly gone about their duties in work that seems now almost routine. Between 1998 and 2004, the number of U.N. peacekeeping operations more than doubled … Liberia's recent presidential election was a one-day news story about people peacefully voting after years of bloodshed. But only a successful peacekeeping mission made it so … We cannot yet be said to have reached, as an international community, anything like consensus as to how and when any intervention should be undertaken and under whose authority. And while the disagreement continues, people keep dying. But we are at least now on our way.[32]

---

[27] "Congo: A giant leap forward" The Economist, London, 7 January 2006, Vol. 378, No. 8459, p. 39; Lewis, D. "Congolese Begin Voting in First Free Poll in 40 Years"http://www.voanews.com/english/2005-12-18-voa16.cfm, 18 December 2005, p. 1

[28] "Consolidate Africa's Progress, Promise Now, State's Frazer Urges Assistant secretary of state outlines regional challenges for Senate panel" http://usinfo.state.gov/xarchives/display.html, 17 November 2005, p. 1;

[29] Loconte, J. "The U.N. Sex Scandal" The Weekly Standard, Washington, 3 January – 10 January 2005, Vol. 10, Issue 16, p. 14

[30] "International: Daddy wore a blue helmet" The Economist, London, 23 April 2005, Vol. 375, Issue 8423, p. 63; "UN WATCHDOG REPORT DEALS WITH SEXUAL ABUSE, FUEL THEFT AT MISSIONS, CORRUPTION" http://www.un.org/Docs/journal/asp/ws.asp?m=A/60/346">report, 18 October 2005, p. 1; "Nigeria withdraws peacekeepers over sex claims" http://www.mg.co.za/articlepage.aspx?area=/breaking_news/breaking_news__africa/&articleid=250676, 12 September 2005, p. 1

[31] "Editorial: The Worse U.N. Scandal" http://www.nytimes.com/2005/10/24/opinion/24mon3.html, 24 October 2005, p. 1; "Nigeria withdraws peacekeepers over sex claims" http://www.mg.co.za/articlepage.aspx?area=/breaking_news/breaking_news__africa/&articleid=250676, 12 September 2005

[32] Evans, G. "Peacekeeping doesn't make news, but it works", http://www.theunionleader.com/article.aspx?headline=Gareth%20Evans:%20Peacekeeping%20doesn%E2%80%99t%20make%20news,%20but%20it%20works&articleId=0060dce2-c8c6-4782-9229-11e927d8fc5f, 26 November 2005, p. 1

This is not the despair required to force a switch to PMCs; hence, whatever the weaknesses of the current system, it will persist. But that does not mean there is no place for PMCs in UN missions. In fact, the exciting notion of the UN hiring a PMC such as Executive Outcomes really only obscured the existing reality. The fact is that, "In the 1990s, every multilateral peace operation conducted by the UN was accomplished with the presence of private military or security companies."[33] Consider the more recent example of the Liberian intervention, praised above: "Many of the West African troops used for the operation had been trained by private companies, were flown to Monrovia by private companies, and once in Liberia were transported, based and supported logistically by private companies."[34]

The conclusion of this debate is that the UN will not hire PMCs to fight its wars, although it does use them for other tasks. The reason for this, however, is not that PMCs are clearly a bad option, but that they are controversial enough that only dramatic failure of the status quo can overcome resistance to hiring them. The status quo, however, is unexpectedly healthy. Therefore, although the debate is not settled in principle, it is concluded in practice.

Should All Mercenaries Be Stopped?

What is conclusive for the UN is not, however, useful in other situations. We need to know the answer in principle. Are private military companies like EO defensible? Are individuals who fight wars for profit ever legitimate? For industry advocates, the tempting answer is no. It would be very convenient to abandon the most mercenary parts of the trade: the retreat would shorten the borders of the PMC business, concede the most passionately contested territory, and leave the industry much more easily defended. The actual justification for scorning mercenaries, however, is not so compelling. Anyone who will condemn all mercenaries and all war-fighting PMCs must be willing to accept a few conclusions. For example, they must judge that Executive Outcomes should not have fought in Sierra Leone, even though the citizens of the country wanted them there, even though the cost was not as outrageous as some imagine, and even though President Kabbah realised that they had been worth it and

[33] *Cited in* Isenberd, D. "A Fistful of Contractors" Op. Cit. p. 20
[34] Brooks, D. & Laroia, G. Op. Cit. p. 121

wished they were back – something he proved by recruiting Sandline, EO's successor, for an encore.[35] Abolitionists must also agree to ground Neall Ellis, the helicopter pilot who held off the rebels in Sierra Leone in 1999 and 2000.[36] And to be fair, they must also explain why they are right.

The attempts to justify these conclusions are large unpersuasive. The first element of the case against mercenaries has already been noted: the claim is that their methods do not work. It is a three-part argument. First, PMCs allegedly do not address the root causes of conflict; second, they give their employers the confidence to push for outright victory, instead of compromising; third, they may win wars but they lose the peace: conflict resumes when they leave. Notice, however, that in both Sierra Leone and Angola, EO fought the opposition to the negotiating table, but not further. No matter how plausible the second point, above, the evidence is simply that Freetown and Luanda did *not* throw compromise to the winds and push for unconditional rebel surrender. EO's fundamental strategy was to create a balance of power by fighting the enemy to the point of despair, forcing it to negotiate, and thereby establishing peace.[37] It failed for two reasons. The troops of the UN or regional bodies who were meant to keep the peace did not appear, or were not strong enough. Yet, even as they failed to turn up in strength, EO was forced to leave. You cannot have a balance of power when one side disarms, and so the Angolan and Sierra Leonean wars resumed. The strategy failed because it was arbitrarily halted.

The final and perhaps most striking rebuttal of the above arguments, however, is how the wars were finally won. In Angola and Sierra Leone, it was plain military force that laid the foundation for peace. The RUF was beaten back by British and UN might and its leader was arraigned for war crimes. In Angola, Jonas Savimbi was shot dead and his bullet-riddled body displayed on television. By contrast, the attempts at compromise were disastrous. The deeply cynical Sao Tome accords of 1999 took Foday Sankoh from death row to high office, and yet the RUF still refused to leave the diamond fields, even taking 500 hostages from the UN force that came to evict them. (That re-started the war that they finally lost in such decisive fashion.) As for

[35] Spicer, T. Op. Cit. p. 191
[36] Venter, A.J. Op. Cit. p. 3
[37] Rubin, E. Op. Cit. p. 44

Angola, the Lusaka Accords of 1994 gave UNITA time to renew its strength and hire its own mercenaries, and the power to get EO out of the country.

The amazing thing about Sierra Leone and Angola is that over the past decade-and-a-half, the two countries have essentially served as controlled experiments for various peacemaking and war-fighting strategies. They have been a political scientist's dream, if also a human nightmare. In both cases, compromise prolonged and exacerbated conflict, and outright war brought peace. Certainly, these are not general principles, because countries are obviously unique, and lessons rarely transfer neatly to other states. (Just for a start, Sankoh and Savimbi were very unusual leaders.) The critical issue to grasp, however, is that empirical evidence strongly demonstrates that EO's methods were viable, that they could achieve piece, and that the compromise alternative failed.

The second main argument against PMCs has to do with their costs. PMCs are expensive and their clients are usually desperately poor. Paying the bill invariably means resource concessions, which deprive a country of badly needed future wealth. These concessions also look depressingly neo-colonial. However, it is hard to argue that a country is better off with its resources under rebel control. It is even more difficult to convince a government that it should conserve wealth and disdain the help of a powerful mercenary army when rebels are closing in on the capital and state forces are in disarray. Here, the argument becomes interesting. What critics are really saying is that states must have alternatives to private armies, because these PMCs are too expensive (which means they might have to sign Faustian pacts with resource-magnates to find funding.) They fear that enthusiasm for PMCs might distract – somehow – from improving the alternatives.[38] (These consist of various forms of peacekeeping by regional bodies, patron states or the UN, and though they cost much more than PMCs, the poorer target state does not have to pay for them. [39]) It is important to keep these cheaper alternatives alive, the argument runs, because they are what the target state will probably opt for if given the choice. Certainly, Valentine Strasser appealed to the UK, UN and US before turning to Executive Outcomes.[40]

[38] Olonisakin, F. in Musah, A-F, & Fayemi, J.K. Op. Cit. pp. 238 – 239
[39] Loc. Cit.
[40] Singer, P.W. Op. Cit. 2003, p. 112

Similarly, Julius Chan of Papua New Guinea sought the help of his Australian patron before turning to Sandline.[41]

PMCs may, however, be better behaved than state forces. For example, Rwanda welcomed assistance from Zaire to help resist the Rwandan Patriotic Front invasion of 1990, but Mobutu's troops were more of a menace than anything else, and were asked to leave.[42] Similarly, ECOMOG became known in Sierra Leone and Liberia as Every Commodity and Moveable Object Gone.[43] PMCs are also likely to deploy faster and fight better – undoubtedly, EO fought better than ECOMOG. Nonetheless, a cheaper option will be extremely tempting; there will be political pressure to take it; and governments might prefer rescue by allies to rescue by clients. Ultimately, war-fighting PMCs probably will not be hired unless the alternative is defeat or rebel control of resources.

There are a few more arguments against PMCs. One is about human rights. Mercenaries are usually assumed to be vicious human rights abusers. However, there is broad consensus that Executive Outcomes behaved like a disciplined and professional force.[44] Critics have not cited any specific instances of human rights abuses, and have instead been reduced to questioning possibly excessive behaviour. For example, EO was faulted for using fuel-air explosives in Angola (a weapon sometimes called a poor man's atomic bomb, because of its great explosive power),[45] or for instructing its helicopter pilots, on one occasion, to fire indiscriminately when they could not distinguish civilians from rebels.[46] By the standards of vicious counter-insurgency warfare, however, these are not devastating criticisms. EO was certainly not implicated in the sort of sex abuse and torture scandals that have rocked conventional militaries of late.

---

[41] Spicer, T. Op. Cit. p. 155
[42] Clapham, C. "African Security Systems: Privatisation and the Scope for Mercenary Activity" in Mills, G. & Stremlau, J. Op. Cit. p. 39
[43] Mills, G. & Stremlau, J. Op. Cit. p. 12
[44] Shearer, D. "Portrait of a private army" Foreign Policy, Washington, Fall 1998, Issue 112, p. 73
[45] *The use of fuel air explosives looks less compromising when you consider that Nigerian pilots would later use cluster bombs against the RUF. These not only devastate a wide area, but also create a long-term threat thanks to unexploded bomblets. See* Venter, A.J. Op. Cit. p. 422 – 423
[46] Rubin, E. Op. Cit. p. 48

In the end, you simply cannot fault states for hiring PMCs when their existence is threatened and they have no alternatives. Looking at the sort of service EO provided, you also cannot say that the states might as well have lost; in fact, they seem to have got a pretty good deal. (Any of the Italian city-states of the renaissance would have been pleased with EO's performance. They would also have been agreeably surprised when the company did not revolt after its pay was repeatedly and unilaterally reduced, and that it left when it was told to leave.) To reflect on EO's record and conclude that PMCs are 'not morally defensible', ever – as scholars like 'Funni Olonisakin have done – is to carry anti-mercenary prejudice too far.[47] The wiser judgement is surely this:

> The emergence of 'mercenary' forces, which have prompted much of the concern about the privatisation of security in modern Africa, is far more the result than the cause of the underlying problems of African security; and rather than being inherently or necessarily evil, such forces need to be assessed alongside other would-be solutions to the African security dilemma, each of which – supposedly 'national' armies most definitely included – has its own element of privatisation.[48]

Of course, none of this adds up to proof that mercenaries are often a good idea. It simply maintains that the arguments against the 1990s breed of 'mercenaries' are weak ones; that total moral disgust is unfounded; and that a much more flexible and pragmatic attitude is advisable. This is an important point because too many people found themselves automatically condemning EO when it was doing a fine job in an ethically acceptable manner, at a time when Freetown's needed saving and lacked options. The danger with those who cannot stand mercenaries under any conditions is that their sentiments trump practical considerations. Such irrational modern piety – that mercenaries are always evil – only causes more suffering when it defeats or hampers an otherwise workable option. This is why the OAU Convention's definition of a mercenary is wise. The correlation between the mercenary motive (to make money by fighting) and criminal behaviour is weak. It is therefore much more

[47] *See* Olonisakin, F. in Musah, A-F, & Fayemi, J.K. Op. Cit. p. 234
[48] Clapham, C. "African Security Systems: Privatisation and the Scope for Mercenary Activity" in Mills, G. & Stremlau, J. Op. Cit. p. 25

accurate to condemn someone for what they do (such as attempting to overthrow a government), and not why they do it (for profit). If this provision *were* supplemented with a regulatory process that decides whom mercenaries may work for, to ensure they do not aid undesirable regimes, there seems to be no reason to stop people from fighting for profit. Such a provision would allow a good but vulnerable government like Sierra Leone's to hire a pilot like Neall Ellis; and after all, the case for criminalizing such an agreement is weak. It could also, however, be used to prohibit less defensible employment, such as when Mobutu Sese-Seko hired Ellis, or when Carl Alberts worked for Charles Taylor.

In principle, then, real mercenaries *can* be morally acceptable. However, there has been a shift in the PMC current since Executive Outcomes closed down, such that war-fighting PMCs are actually now either rare or extinct. As Alex Vines rightly argued in 2000, "Unlike private military companies, private security companies are booming and their markets are starting to grow."[49] War-fighting companies always face controversy and criticism, which can be overwhelming. There is also a shortage of clients, and a major shortage of good clients – it is one thing to defend Sierra Leone's legitimate government from the nihilistic, mindless brutality of the RUF, but quite another to fight for Mobutu against Laurent Kabila, or *vice versa*. Given these facts, PMCs have an interest in keeping clear of the war market in favour of the security market. The long and complicated debate over mercenary acceptability, therefore, probably has minimal practical relevance.

PMCs in Perspective

How big is the PMC industry, and how big are each of its components? The standard figure suggests that the industry is worth $100 billion annually,[50] but industry representatives ridicule this as exaggerated and misleadingly inclusive of non-military expenditure, and argue that $20 billion – half of it spent in Afghanistan and Iraq – is more accurate.[51] The reason for this $80 billion variation is that the $100 billion figure reflects the worldwide private security industry – including all the guards and

[49] Vines, A 'Mercenaries, Human Rights and Legality" in Musah, A-F, & Fayemi, J.K. Op. Cit. p. 192
[50] Gutman, H. "Soldiers for Hire" Monthly Review, New York, June 2004, Vol. 56, Issue 2, p. 11
[51] Brooks, D. & Shevlin, J. "Law and Ethics: Reconsidering Battlefield Contractors" Georgetown Journal of international Affairs, Issue 6:2, Summer/Fall 2005, p. 1

security systems at every shopping mall, factory and office in the world. As the Royal Institute for International Affairs reports, the biggest company in the field is Securitas, with a $6 billion turnover and 210 000 employees in over 30 countries. The second biggest is Group4securicor, with $3.8 billion turnover, and 360 000 employees in more than 100 states.[52] With just two firms doing almost $10 billion's worth of business, it is easy to see how the net value of the industry adds up to $100 billion. There are other measures to prove it, too. The private security industry in London alone is valued at £80 million – for a single city in a peaceful country with a relatively low crime rate.[53] In South Africa, there are about 2 700 security companies, with about 130 000 staff (40 000 of them armed).[54] The Russia industry is bigger, employing about 150 000 people.[55]

In the private military industry, the biggest single contract is Kellogg, Brown & Root's LOGCAP. Between the start of the Iraq war in 2003 and November 2005, the company had received $12.25 billion and contracted for another $4.9 billion's worth of work.[56] Other companies earn substantially less. The biggest contract in Iraq for security work – also the biggest security contract ever awarded by the US Government – went to the British firm Aegis Defence Services. It is worth $380 million.[57] Many security contracts are much smaller. The Erinys contract to guard Iraqi oil fields, awarded in August 2003, is valued at $39.5 million.[58] As for an estimate of the total, the Government Accountability Office reported in late 2005 that US agencies had, by the end of 2004, signed for $766 million's worth of private security in Iraq.[59]

Hence, we must distinguish three sectors of the greater private security and military field. There are security companies that provide security worldwide, mostly in

[52] "Briefing Paper: the Globalisation of Security" The World Today, London, November 2005, Vol. 61, Issue 11, p. S1
[53] Johnson, A. "ATTACKS ON THE RICH BRING FEAR TO BELGRAVIA; PRIVATE SECURITY GUARDS WITH DOGS PATROL THE STREETS" Independent on Sunday (London), 27 November 2005, p. 22
[54] O'Brien, K.A. "Private Military Companies and African Security" Op. Cit. p. 63
[55] Singer, P.W. Op. Cit. 2003, p. 12
[56] Hess, P. Op. Cit. p. 1
[57] "Aegis links help reinforce security" The Times (London), 25 November 2005, p. 84
[58] Klare, M.T. "Fighting for Oil-Still" The Nation, New York, 19 April 2004, Vol. 278, Issue 15, p. 23
[59] Hodge, N. "Army Chief Notes 'Problematic' Potential of Armed Contractors On The Battlefield" DEFENSE DAILY INTERNATIONAL, Vol. 6 No. 32, 9 September 2005

peaceful areas where crime is the sole threat. That industry is worth between $95 billion and $100 billion.[60] Then there are private military companies, some of which do *logistical* work (building bases, feeding soldiers, *et cetera*), and some of which provide active or passive force (guarding oil fields, convoys, individuals and so forth). The total PMC market is worth about $20 billion.[61] Of this total, the bulk goes to the logistics companies. One need only compare the biggest logistics contract ever – KBR's $12.25 *billion* – with the biggest security contract ever – Aegis's $380 *million* – to grasp the difference in scale. The value of the global market for the force providers, according to ArmorGroup estimates, rose from $900 million in 2003 to $1.7 billion in 2004.[62]

The trouble is that these figures are often confused. Take, for example, Huck Gutman, writing in the *Global Review*:

> Warfare is less and less the domain of states, and more and more an area for corporate investment, growth, and control. Warfare, in blunt terms, is being increasingly privatised as we enter the 21st century… There is no arguing with economic facts. The privatised military 'industry,' in the words of Peter Singer, an expert on this new economic reality, 'has several hundred companies, operating in over 10 countries on six continents, and over $100 billion in annual global revenue.' [63]

Except, of course, these are the wrong economic facts.[64] Admittedly, there is a prima facie credible argument that contractors providing force are mercenaries. There is a weak argument that logistics contractors are mercenaries. But there is no sane

[60] "Briefing Paper: the Globalisation of Security" Op. Cit. p. S1
[61] Brooks, D. & Shevlin, J. Op. Cit. p. 1
[62] Almond, P. "War's fertile grounds for soldiers of fortune" The Sunday Times (London), 30 October 2005
[63] Gutman, H. Op. Cit. p. 11
[64] Exactly the same mistake is made by Michael Cohen and Maria Küpçü, who quote the same piece of Singer, including the $100 billion figure, and add, "The use of PMCs has grown steadily since the early 1990s… Mercenaries have long been a part of war, but as one of the fastest-growing sectors in the defence industry, some PMCs are shedding their 'guns for hire' reputation for a more respectable, corporate image." This is profoundly misleading. Cohen, M.A. & Küpçü, M.F. "Privatising Foreign Policy" World Policy Journal, New York, Fall 2005, Vol. 22, Issue 3, p. 34

argument that shopping mall guards are mercenaries.[65] There is no $100 billion mercenary industry, and in fact, the part of the industry that can most plausibly be called mercenary, the private contractors who carry guns in places like Iraq and Afghanistan, is worth less than 2% of that figure.

State Services, the Liberal Economy and Force

The focus thus far has been on states, both strong and weak, but PMCs also have private buyers. Why? The modern proliferation of PMCs is often explained as an extreme but natural neoliberal conclusion. Quite often, this is meant to be a criticism, from authors who are highly critical of neoliberal ideas.[66] It is worth, however, considering the reasons underpinning these conclusions. The neoliberal preference for markets to meet demands rests on the belief that the alternative, states, do not do a very good job. They do not excel at predicting or planning for demand; they offer inferior goods and services because they usually lack competition; and when you want something from the state, you cannot simply buy it, but must instead solicit the favour of the powerful.[67] Of course, neoliberals have usually accepted the state monopoly on violence. Nonetheless, there is no reason why state-provided security should not be every bit as lousy as other state-services. This, in fact, is precisely why ordinary private security is such a large industry. The state cannot or will not provide the level of security people want, so they buy extra. After all, you cannot have a policeman outside your complex, but you can have a security guard. Exactly the same thing happens in the military sector, except that conditions are more hazardous and the service is commensurately more extreme.

A good example is post-Katrina New Orleans. The city was both flooded and lawless; desperate conditions that created spontaneous demand for PMCs. Individuals paid

[65] *Furthermore, if any more evidence needs be adduced, they are not the subjects of any law proposed to regulate PMCs, they are not analysed by the literature concerned with PMCs, and they are not at all a new phenomenon, nor a very controversial one. Even the people who believe there is a $100 billion mercenary industry do not mean to include the entire global security market.*

[66] *See, for example,* Ferguson, J. "Seeing Like an Oil Company: Space, Security, and Global Capital in Neoliberal Africa" American Anthropologist, Washington, September 2005, Vol. 107, Issue 3, p. 377

[67] *A commendable summary of these arguments may be found in* Wolf, M. Why Globalisation Works, Yale University Press, New Haven & London, 2004, especially chapter 5

between $700 and $2000 to have armed security guards posted at their homes.[68] CNN protected its crew with the same firm (the AKE Group) that it uses in Iraq; ABC, CBS and NBC News also hired security for their personnel.[69] Hotel chains like Starwood Hotels (of Sheraton fame), Marriott International and Hilton Hotels retained guards to protect their guests, provide escort for the evacuation busses and secure their properties.[70] The Tenet Healthcare Corporation had six hospitals (containing 4 000 patients and staff people) in the city. When the company inquired about government plans to evacuate these institutions (once it turned out Hurricane Katrina would not be easily shrugged-off, like its forebears) it was told by an official from Louisiana's Office of Emergency Preparedness that, "You need to use private assets if you want it done quickly."[71] In the event, the job was completed within two days, by a hastily assembled coalition of corporations that included DynCorp.[72] Other well-known PMCs were also involved in New Orleans, like Blackwater, which sent about 150 employees to the region (the first arriving within twenty-four hours of the crisis),[73] and ArmorGroup International, which deployed roughly 50 people.[74] These included contractors back from Iraq, and as one Blackwater employee commented, "The only difference between here and Iraq is there are no roadside bombs."[75] That view is probably an exaggeration; the use of PMCs in New Orleans is easily derided as overkill.[76] It should be added that ordinary security companies provided most of the private defence in the city, and that even the companies with military reputations, like

[68] Langford, T. "Along Gulf Coast, Private Security Firms Escort Supplies and Rescue Records" Houston Chronicle, 12 September 2005, p. 1
[69] Gough, P.J. "NBC sends armed guards to lawless Gulf Coast" http://news.yahoo.com/news?tmpl=story&u=/nm/20050901/tv_nm/katrina_dc_2, 1 September 2004, p.1
[70] Cole, A. "From Iraq's Green Zone to the French Quarter" http://www.marketwatch.com/news/story.asp, 18 September 2005, p. 1
[71] Reddy, S. "Tenet improvised a military-style effort to clear its hospitals" http://www.dallasnews.com/sharedcontent/dws/bus/stories/091105dnbustenet.10d199c.html, 11 September 2005, p. 1
[72] Reddy, S. Op. Cit. p. 1; Cole, A. "Security companies deploy to New Orleans" http://www.investors.com/breakingnews.asp?journalid=31359580&brk=1, 2 September 2005, p. 1
[73] *Interestingly, Blackwater said that it had not anticipated the demand for its services; a company executive reported (with a mildly inappropriate choice of words) that, "The calls came flooding in." See* Witte, G. "Private Security Contractors Head to Gulf" Washington Post, 8 September 2005, p. A14; Borelli, F. "Blackwater in Louisiana, Pt. II" http://www.blackwaterusa.com/btw2005/articles/091905frank.html, 19 September 2005, p. 1
[74] Leahy, K. "Military for hire, Gulf to Gulf Coast" http://www.star.niu.edu/articles/?id=11510, 27 September 2005, p. 1
[75] Roelofs, T. "Iraq or New Orleans -- It's all part of the job for security guard" http://www.mlive.com/news/grpress/index.ssf?/base/news-24/1126622902157390.xml&coll=6, 13 September 2005, p. 1
[76] Scahill, J. & Crespo, D. "Overkill: Feared Blackwater Mercenaries Deploy in New Orleans" http://www.democracynow.org/static/Overkill.shtml, 11 September 2005, p. 1

ArmorGroup, still sent mostly typical security guards, not commandos.[77] The essential point, however, is that government service can be poor and the private sector can be better – a familiar neoliberal claim – and this applies as much to security as it does to everything else. In fact, the argument is even more compelling with something desperate like security, because the implications of bad service are usually bloody.

Precisely the same point applies even when you are not a New Orleans corporation or millionaire. There is a town called Magpet (population 40 000) in the Philippines, which has suffered attacks by Communist rebels calling themselves the New People's Army. In one incident in July 2005, guerrilla forces moved into the town, set up roadblocks, robbed the police station of firearms and left unscathed.[78] Instead of escaping, however, they paused at the next village to rest. As a Canadian journalist relates,

> After learning the guerrillas had stopped after the attack … the mayor notified local army commanders so they could launch an attack. He was told troops could not leave their barracks without the approval of senior officers. By then, the guerrillas had returned to their jungle hideout.[79]

The vexed mayor responded by contacting a Canadian 'mercenary,' an ex-soldier with experience in Kosovo and Afghanistan, who had also worked in the Philippines leading small combat teams against guerrilla bases to protect American-owned banana plantations, for a PMC called Grayworks Security.[80] The mayor's sentiment was that, "We can't just sit here and do nothing," so he found someone who would sell him the military services the army would not provide.[81] The Canadian planned a reprise of his banana-plantation tactics: attacks on the rebels in their own territory, using about a dozen men (ex-Fijian soldiers and mayoral bodyguards), with assault rifles and

---

[77] "[A company spokesman] said the employees he has dispatched to the Gulf Coast are typically Americans who have retired from law enforcement jobs. They are armed with pistols and dressed in khaki pants and blue polo shirts. 'They're licensed, mature people,' he said. 'On balance, they're sort of an older crowd than people we have in hotter spots around the world.'" Witte, G. Op. Cit. p. A14
[78] Pugliese, D. "Soldiers of Fortune" http://www.canada.com/fortstjohn/story.html?id=51852c83-b514-4cb0-9f30-5f5d8ce03612, 12 November 2005, p. 1; Pugliese, D. "Soldiers of Fortune: Canadians at work in the war on terror" The Ottawa Citizen, 13 November 2005, p. B5
[79] Loc. Cit.
[80] Pugliese, D. "Guns for hire in the Philippines: The country offers steady stream of battles to private militia men who crave combat" The Vancouver Sun, 14 November 2005, p. A5
[81] Pugliese, D. "Soldiers of Fortune" p. 1

grenade launchers.[82] (In fact, the story gets a little tricky: the mayor may have paid for his militia with the $90 000 the town received from the Canadian International Development Agency.[83]) It is not yet clear whether these measures have secured Magpet, but we do know that the rebels have not bothered the banana companies who employed Grayworks.[84]

The desperate need to find effective security when states fail to provide has hit the United Nations, too. A famous example comes from the Rwandan genocide of 1994. When the Tutsi Rwandan Patriotic Front invaded the country to oust the Hutu government and stop the genocide of Tutsis, approximately 2 million fearful Hutus fled into Tanzania and Zaire to escape.[85] Over the next two years, the international community would spend $2.5 billion on the effort to remedy the massive humanitarian disaster that resulted.[86] The unexpected difficulty, however, was that the camps contained large portions of the defeated army and government in addition to the ordinary civilians. These forces preyed on the civilians, and used the camps as bases for attacks into Rwanda. To handle this security crisis, the Security Council decided to hire soldiers from Zaire (although it considered hiring a PMC). [87] The first batch, recruited from the presidential guard, did a fairly sound job of establishing security; the second group, however, became the single biggest threat to the refugees they were sent to guard.[88]

Recently, reports from the Sudan indicate a similar problem. Militias have attacked camps in the West Darfur region, causing the refugees to flee.[89] The problem is twofold: first, they are vulnerable in the open, and second, they might flee into Chad, which is already overburdened.[90] The point of these examples is that a PMC could quickly deploy an effective and disciplined force to provide desperately needed

---

[82] Alcuitas, T. "Is Canada Funding Mercenaries in Mindanao?" http://www.bulatlat.com/news/5-45/5-45-canada.htm, 19 December 2005, p. 1
[83] Loc. Cit.
[84] Loc. Cit.
[85] Khan, S. M. The Shallow Graves of Rwanda, I. B. Tauris, London, 2000, p. 201
[86] Gomes, S. C. S. C. The European Union's Political and Development Response to Rwanda, ECDPM Discussion Paper No. 27, July 2001, p. 8
[87] Avant, D. Op. Cit. 2005, p. 196
[88] Ibid. p. 197
[89] Schlein, L. "UNHCR Says Camp for Displaced People Attacked in Darfur" http://www.voanews.com/english/2005-09-29-voa36.cfm, 29 September 2005, p. 1
[90] Wielaard, R. "EU security chief in Chad for talks on Darfur" AP Worldstream, 9 October 2005, p. 1

security. There does not seem to be a viable alternative than will provide the necessary quality forces in time.[91]

The South African Connection

South Africa has a substantial interest in private military companies, although not because they are likely to operate here. The link is that South Africa is a major supplier of personnel to the industry, with all the benefits and burdens that entails. Furthermore, PMCs and mercenaries have an impact on other areas of concern to Pretoria, particularly in Africa (either in positive ways, such as PMCs supporting the AU, UN *et cetera*, or in destructive ways, like mercenary support to rebels). In the 1990s, Executive Outcomes attracted a lot of attention, and provoked the 1998 Regulation of Foreign Military Assistance Act. In this decade, the Equatorial Guinea coup-plot and events in Iraq have also produced controversy and new legislation.

Of these, Iraq is far and away the most important issue. Executive Outcomes has been closed for business for eight years, and the 'private army' model of PMC it exemplified has faded away, at least for the time being. The Equatorial Guinea coup represents a more topical issue, but not a more interesting one. The plot was clearly illegal in terms of the 1998 Act, under which the conspirators are being tried, and there is not too much doubt that such schemes should be illegal. Of course, there is some doubt, because President Teodoro Obiang Nguema is a despotic and corrupt ruler, so the concept of regime change is slightly tempting.[92] However, three points dull whatever normative lustre the plan possessed. First, the AU is constructing a robust norm against coups of any sort.[93] Second, a mercenary coup, especially one involving oil wealth and abetted by members of the British aristocracy, is so palpably neo-colonial that legitimacy would have been in short supply.[94] Third, South Africa would have struggled to accept the involvement of its citizens, particularly because of the embarrassment caused to the government by any association in such a project.[95]

---

[91] Ofori, R. "Security Problems Hinder Darfur Relief Efforts" http://www.voanews.com/english/Africa/2005-10-19-voa46.cfm, 19 October 2005, p. 1
[92] Liddle, R. "Help me, wonga" The Spectator, London, 4 September 2004, Vol. 296, Isue 9187, p. 14
[93] "International: The fog and dogs of war; Mercenaries in Africa" Op. Cit. p. 67
[94] "Equatorial Guinea politics: Heavy sentences awarded in coup trial" EIU ViewsWire, New York, 7 March 2005, p. n/a
[95] Versi, A. Op. Cit. p. S2

For these reasons, there is not much to be said on this subject, because the national interest is clear.

Iraq, however, is neither a dormant issue nor a non-controversial one. We know that there are many South Africans working in the country. Quite how many is not clear, partly because no one knows (the process of outsourcing and subcontracting creates a complex web of employment, such that even the people paying the bills do not have all the information). Furthermore, South Africans have an interest in being discreet, especially as the government seems to disapprove of their employment in Iraq. Because of these factors, estimates vary quite dramatically. A United Nations report suggests that South Africa is the third largest supplier of contractors to Iraq, after the United States and the United Kingdom.[96] The British Association of Private Security Companies puts the figure at no more than 5 000;[97] the International Peace Organisations Association in Washington concurs, and points out that South Africans are also involved in places like Haiti (working for DynCorp).[98] Members of the Anti-War Coalition suggest the number is somewhere between 5 000 and 10 000.[99] The South African Institute of Security Studies guesses that it is as low as 1 400.[100]

To put this in perspective, consider that in December there were about 160 000 American soldiers in Iraq, although those numbers were being drawn down. (There are leaked plans suggesting that this number will halve by the end of 2006).[101] The second biggest military contingent is Britain's, at about 9 000 soldiers.[102]

True to the American and British experience, the prospect of high salaries has meant that some skilled individuals in the national services, especially the South African Police Service, have left for Iraq. For example, "At least 25 highly trained members

[96] Vally, S. & Clarno, A. "Iraq: the South Africa Connection" www.corpwatch.org, 6 March 2005, p.1
[97] Tigner, B. & Gibson, E. Op. Cit. p. 1
[98] "Security firms lobby against bill" http://www.capeargus.co.za/index.php?fSectionId=55&fArticleId=2993980, 14 November 2005, p. 1; "US firm mum on SA men killed in Iraq" http://iafrica.com/news/sa/622095.htm, 17 November 2005; "Brooks says the anti-mercenary bill undermines South Africans in peacekeeping missions" http://www.sabcnews.com/politics/parliament/0,2172,116144,00.html, 12 November 2005, p.1
[99] Vally, S. & Clarno, A. Op. Cit. p. 1
[100] Pompey, F. "To Go There Is Crazy" Le Monde, 7 April 2005 (no page available)
[101] Isenberg, D. "Fighting talk, but who's going to fight?" http://atimes.com/atimes/Middle_East/GL02Ak02.html, 2 December 2005, p. 1
[102] Vally, S. & Clarno, A. Op. Cit. p. 1

of the Task Force and Explosives Unit in Durban have resigned in the past two years."[103] In November 2005, Defence Department spokesman Sam Mkhwanazi, described work on amendments to the 1998 Foreign Military Assistance Act as, "urgent because of the latest developments within the SANDF and SAPS … the government is worried about the loss of highly skilled specialists."[104]

South African security contractors are worth a sizeable amount of money to the country. The SA Institute for Security Studies estimates that as much as R6 billion in remittances enters South Africa every year, courtesy of South Africans in the global PMC industry.[105] Iraq contracts are thought to be worth somewhere between R2.4 billion and R4 billion.[106]

Given these facts, South Africa is clearly engaged in the PMC business in general and in Iraq in particular. What is the national interest? Certainly, we are losing in some respects – the loss of personnel from the police being a case in point. But this sort of loss is at least balanced by the quantity of earnings that are repatriated. On that balance sheet, at least, the country is benefiting. But this is obviously not the only balance sheet. On another level, South Africa opposed the Iraq invasion, so it has a natural objection to its citizens being involved in the project. It also objects to the consequences of the project, and the way that South Africans are involved. The Sunday Independent expressed this view very clearly in an editorial entitled 'SA mercenaries must leave Iraq":

> The massive number of South Africans in Iraq fighting against Iraqis … is a blight on the good name of South Africa … Despite our problems, South Africa is known as a miracle nation, where reconciliation overcame hostility, and negotiated settlement usurped war. We should not be adding to this

[103] Fabricius, P., Meyer, J. & Barbeau, N. Op. Cit. p. 1
[104] Hosken, G. "South Africa: Government Moves to Halt Exodus of Security Forces to Iraq" www.corpwatch.org, 3 November 2004, p. 1
[105] Brooks, D. "New legislation will undermine SA's security staff abroad" http://www.capetimes.co.za/index.php?fSectionId=273&fArticleId=2891749, 27 September 2005, p. 1
[106] Stremlau, J. "Isolationist backlash in US may not bode well for SA interests" www.sundayindependent.co.za, 26 November 2005, p. 1

> reputation the epitaph that we are also one of the biggest exporters of hired guns in the world…[107]

Reinforcing the issue are two specific problems. In the first place, some of the South Africans involved certainly committed very serious abuses during the apartheid era. Inasmuch as we accept responsibility for the actions of our citizens, or feel their actions taint our reputation, we have an interest in preventing these people from carrying guns in Iraq – or anywhere, for that matter. Furthermore, for two years, contractors in Iraq were subject to no law at all. Naturally, this makes abuses more likely, and there is compelling evidence that abuse occurred (although South Africans have not been implicated). These things leave a nasty taste in many mouths.

It is always difficult, of course, to quantify the growth or diminution of something intangible like a reputation. South Africa has not faced any prominent international censure on this score, or notable protests from civil society, or any other such signs that its reputation is slipping. Also, if some countries think less of us for being a source of 'mercenaries', others will be quite seriously affected if we stop the supply now – and will certainly think less of us. Conceptions of the national reputation are also easily conflated with personal sentiments. If your ideas of right and wrong do not square with the Iraq war, if your pride in South African does not sit easily with any South African involvement in Iraq, and if you think mercenaries are terrible and that PMC contractors are mercenaries, then you will surely feel that South Africans in Iraq are hurting the national reputation. You will agree that, "the steps being taken by the government to tighten up on mercenary activity are vital, and long overdue."[108] You will surely applaud when new legislation is used to forbid South Africans from working in the PMC industry, and to punish those who persist.

This might be a mistake. Note that using a ban on contractors to express disapproval of the war at this late stage is malicious and irresponsible. Even the United Nations has taken a pragmatic line on the invasion, and the Security Council recently renewed the mandate for coalition troops in Iraq until at least the end of this year.[109] The Iraqi

---

[107] "SA mercenaries must leave Iraq" The Sunday Independent, 6 March 2005, p. 8
[108] Loc. Cit. *The writer certainly considers contractors in Iraq to be mercenaries.*
[109] Stremlau, J. Op. Cit. p. 1

government has introduced measures to control contractors and punish abuses. It also wants contractors to be in Iraq, to help with the vital but difficult reconstruction.[110] It is not clear how South Africa helps by obstructing this process.

There is another interesting argument against over-strict regulation. Consider Deborah Avant's judgement on the 1998 Act: "The legislation appears to have simply pushed what was an above board business underground."[111] Although Executive Outcomes initially claimed to favour the new law, the firm officially closed its doors on 1 January 1999.[112] The important thing is that the closure of EO did not mean the end of South Africans working for PMCs. Firms like Sandline could still employ South Africans whilst operating out of more friendly countries (the Bahamas, in Sandline's case), and companies like Saracen simply left the country.[113] Because these firms left, the country was not only deprived of revenue, but also lost what control it might have exercised.[114] A registered company with known directors and fixed premises is accountable. It can be influenced, either informally (which is one of the ways America controls its PMCs) or by regulation. The company can always leave if the regulation is too restrictive, of course, because PMCs are 'virtual' companies: "Basically … a retired military guy sitting in a spare bedroom with a fax machine and a Rolodex."[115] But a system of licensing that is neither too slow nor too strict need not scare away PMCs, especially established ones. PMCs might even find an advantage in submitting to such controls, because they could legitimise their actions and counter the mercenary stigma.[116]

The South African government has not only lost an opportunity to regulate the industry. Some former members of Executive Outcomes have gone on to become quite problematic. For example, the Equatorial Guinea plot involved former EO

[110] Poole, O. Op. Cit. p. 1
[111] Avant, D. Op. Cit. 2005, p. 164
[112] Vines, A. "Mercenaries and the Privatisation of Security in South Africa" in Mills, G. & Stremlau, J. Op. Cit. p. 56
[113] Avant, D. Op. Cit. 2005, p. 166
[114] Loc Cit.
[115] Herbst, J. "The Regulation of Private Security Forces" in Mills, G. & Stremlau, J. Op. Cit. p. 125
[116] *Cited in* Ibid. p. 117

directors and personnel like Simon Mann, Simon Witherspoon and Lafras Luitingh.[117] Would they have attempted a mercenary coup if the government had not forced them to close EO, and instead permitted them to provide more acceptable services? It is hard to do more than speculate, because might-have-beens are frustratingly unverifiable. Handily, however, there is another example that allows for a much stronger inference, bolstering the theory that crushing legitimate companies produces illegitimate activity. In 2003, two South Africans found work guarding no less a person than Jay Garner, first head of the Coalition Provisional Authority. They impressed their client, who recommended them to Bernard Kerik, the former New York police commissioner in charge of police training.[118] To do business with the US government, the South Africans formed a company called Meteoric Tactical solutions, which quickly won two contracts worth about $1 million.[119] These were never fulfilled, however, because the State Department, researching the company in order to grant security clearances, discovered they had broken South African law. They had signed a contract to provide security services without first receiving SA government approval. According to David Isenberg, as of January 2004, "To prevent future legal proceedings in South Africa under its anti-mercenary law, Meteoric and other South African companies submitted an authorisation request at the ad-hoc ministerial committee. But they never received a response."[120] In March 2004, the Meteoric owners (Lourens Horn being one of them) were part of the group arrested in Zimbabwe buying weapons for the Equatorial Guinea coup. If their license had been granted, they would instead have been guarding a government official or training police officers in Iraq. It would be hard to find a better demonstration of the dangers of regulating businesses out of business.

The case for a less restrictive, more business-friendly approach to regulating PMCs in South Africa contains these basic arguments.

---

[117] "Zim mercenary returns to SA trial" http://www.witness.co.za/content/2005_06/34872.htm, 22 June 2005, p. 1; Venter, A.J. Op. Cit. p. 420 – 421; Pallister, D. "The Great Game" Harper's Magazine, New York, August 2005, Vol. 311, Issue 1863, p. 24

[118] "Profile: American use of South African mercenaries as bodyguards and police trainers in Iraq" NPR: Morning Edition, Washington, D.C., 15 February 2005, p. 1

[119] Loc. Cit.

[120] Isenberg, D. "A Fistful of Contractors" Op. Cit. p. 36

- PMCs do essentially legitimate work. Indeed, PMCs support the AU mission in Darfur, as well as the UN and ECOMOG missions in West Africa. Sometimes it will not be in the national interest for a PMC to sign a particular contract, but this problem can be solved by regulation.
- The right of South Africans to do legitimate work should be protected, both from legislative prohibition, and from regulations that are tantamount to prohibition.
- This has a secondary advantage. If regulation is flexible enough, and its application generous enough, PMCs are viable businesses. If not, PMC employees are more likely to do undesirable mercenary work.
- PMCs earn very substantial sums for the country.

Added to all these points is the simple fact that the global PMC industry is a reality, and South Africa cannot make it go away. The United States has embraced it wholeheartedly. Britain will probably do the same when it creates regulations for the industry; the *status quo* is certainly PMC-friendly. PMCs are widely used by corporations, NGOs, and governmental organisations like the United Nations, the African Union and ECOWAS (all for logistics only).[121] As Jeffrey Herbst has acknowledged, "Private provision of violence is a force of nature: it cannot be ignored and it will not go away, so it should probably be harnessed."[122] This is equally the case for private provision of military-related services like logistics: it should be welcomed.

In theory, South African legislation – by introducing a licensing system for PMCs – does just that. However, both the 1998 Act and the 2005 Bill are much too strict on paper, and have been or probably will be applied such that they might as well disallow PMCs. The case for this policy is fundamentally weak. Little is to be gained, and much potentially lost, by banning an industry that will not go away and which has a demonstrated value if regulated. The South African interest, broadly and humanely understood, would be better served by a more pragmatic policy.

[121] Pugliese, D. "Soldiers of Fortune: Peacekeeping for profit" Ottawa Citizen, 16 November 2005, p. A11
[122] Herbst, J. "The Regulation of Private Security Forces" in Mills, G. & Stremlau, J. Op. Cit. p. 125