

DURABLE DISORDER

The Return of Private Armies and the Emergence of Neomedievalism

Sean McFate

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DECLARATION

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ABSTRACT

Since the end of the Cold War private military companies—conflict entrepreneurs that kill or train others to kill, typically in foreign lands—have proliferated at an alarming rate. Curiously, the primary consumer of this new service are not weak states looking to consolidate their monopoly of force (although this has happened) but strong states like the United States of America, which possesses the greatest monopoly of force in the world. This thesis examines how and why this has occurred.

The reappearance of private military actors is also a harbinger of a wider trend in international relations: the emergence of neomedievalism. The erosion of the taboo against mercenarism signals a return to the pre-Westphalian norm of the Middle Ages, when states did not enjoy the monopoly of force and subsequent special authority in world politics. Instead, the medieval system was polycentric in nature with authority diluted and shared among state and non-state actors alike. Because the return to the status quo ante of the Middle Ages is occurring worldwide, it is best described as ‘globalised neomedievalism’.

Globalised neomedievalism is a non-state-centric and multipolar world order characterized by overlapping authorities and allegiances on a local and global scale. It does not imply worldwide atavism. States will not disappear, but will matter less than they did a century ago. Nor does neomedievalism connote chaos and anarchy; the global system will persist in a durable disorder that contains rather than solves problems. A key challenge of neomedievalism is the commodification of conflict: offering the means of war to anyone who can afford it will change warfare, why we fight and the future of war. The implications of this are enormous since it suggests that international relations in the twenty-first century will have more in common with the twelfth century than the twentieth.

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Washington DC, July 2011

To the past—*farewell*

Epitaph on an Army of Mercenaries

These, in the day when heaven was falling,
The hour when earth's foundations fled,
Followed their mercenary calling,
And took their wages, and are dead.

Their shoulders held the sky suspended;
They stood, and earth's foundations stay;
What God abandoned, these defended,
And saved the sum of things for pay.

—*A.E. Housman*

Chapter 1

Medieval Modernity

There's never a new fashion but it's old

—Geoffrey Chaucer

It is a familiar story. A superpower goes to war and faces a stronger than expected insurgency in distant lands, yet has insufficient forces to counter it due to political and military constraints. Owing to this, the superpower decides to hire contractors, some of which are armed, to support its war effort. The armed contractors prove to be both a blessing and a curse, providing vital security services to the campaign, yet at times killing innocent civilians in their zeal, causing strategic setbacks and damaging the superpower's legitimacy. Without these contractors it would be hard for the superpower to wage war but with them it is difficult to win.

The armed contractors in question are not in Iraq or Afghanistan but Northern Italy, and the year is not 2007 but 1377. The superpower in question is not the United States of America (US) but the Papacy under Pope Gregory XI, who was fighting the anti-papal league led by the Ducate of Milan.¹ The tragic killing of civilians by armed contractors did not occur in Baghdad but Cesena, 630 years earlier. The military companies employed were not DynCorp International, Triple Canopy or Blackwater but the Company of the Star, Company of the Hat and the White Company.

This last company was a transalpine military firm led by Englishman Sir John Hawkwood, one of the most in-demand mercenaries of his day. He achieved international fame as a mercenary and served as ambassador alongside Geoffrey Chaucer, received angry letters from Saint Catherine of Siena and joined Flemish chronicler Jean Froissart and the Italian humanist Francis Petrarch at a lavish wedding feast for King Edward III's son.² Contemporaries admired and reviled him. According to the fourteenth-century Italian storyteller Franco Sacchetti, two Franciscan monks encounter Hawkwood near his fortress at Montecchio. The monks greet him with the standard salutation: 'May God grant you peace'. Hawkwood coldly replies: 'And may God take away your alms'. Shocked by this rudeness the monks demand explanation. 'Don't you know that I live by war', Hawkwood answers, 'and peace would destroy me? And as I live by war so you live by alms'. 'And

¹ John M. Najemy, *A History of Florence, 1200-1575* (Wiley-Blackwell, 2006), 151-155.

² William Caferro, *John Hawkwood: An English Mercenary in Fourteenth-Century Italy* (The Johns Hopkins University Press, 2006), 2.

so', Sacchetti adds, 'he managed his affairs so well that there was little peace in Italy in his times'.³

The parallels between medieval and modern private armies are uncanny. Today, the United States and other countries employ contractors to fulfill security-related contracts in Iraq, Afghanistan and elsewhere. In the late Middle Ages, such men were called *condottieri*—literally, 'contractors'—who agreed to perform security services described in a written contract or *condotte*. Both modern and medieval contractors were organised as legal corporations, selling their services to the highest or most powerful bidder for profit. Both have functioned as private armies, primarily offering land-based combat skills rather than naval (or aerial) capabilities and deploying force in a military manner rather than as law enforcement or police. Both have been international in composition. Although the mercenary companies in the high Middle Ages fought mostly in Northern Italy, their ranks swelled with men from every corner of Europe and even Muslim Saracens from the Levant. Private armies today also gravitate to where the fighting is, such as Iraq and Afghanistan, yet employ personnel and subcontractors from all over the world. The list of likenesses goes on and is explored in Chapter 3, but suffice it to say that today's private armies share DNA with their ancestors.

³ Franco Sacchetti, *Il Trecentonovelle*, novella CLXXXI (Torino: Einaudi, 1970), 528-529. For more on Hawkwood's interesting life, see: William Caferro, *John Hawkwood: An English Mercenary in Fourteenth-Century Italy*, (Baltimore, MD: Johns Hopkins University Press, 2006); J. Temple-Leader and G. Marcotti, *Sir John Hawkwood: The Story of a Condottiere*, trans. Leader Scott (London: T. Fisher Unwin, 1889); R.A. Pratt, "Geoffrey Chaucer, Esq., and Sir John Hawkwood," *ELH* 16, no. 3 (1949), 188-193; K. Fowler, "Sir John Hawkwood and the English Condottieri in Trecento Italy," *Renaissance Studies* 12, no. 1 (1998), 131-48.

Unlike today, the Middle Ages knew no taboo against mercenaries. Despite Machiavelli's protestations, the mercenary profession was considered a respectable albeit bloody trade, and often the lesser sons of nobility, such as Duke Werner of Urslingen, Count Konrad von Landau and Giovanni de' Medici, sought careers as mercenary captains.⁴ There was no stigma attached to hiring a private army; it was considered no different than employing an engineering company to repair one's city walls or commissioning an artist to paint portraits of one's family. The commodification of conflict resulted in a thriving market for force, as the services of private armies or 'free companies', as they were known, went to the highest or most powerful bidder. Despite the power of states today, a similar phenomenon has begun to resurface. The norm against hiring private international violence is eroding, as evidenced by military companies' employment in the Iraq and Afghanistan wars. Firms such as DynCorp International, Triple Canopy, Aegis Defence Services, Armour Group, Military Professional Resources Inc. (MPRI), Blackwater USA (rebranded 'Xe' and again as 'ACADEMI') and others have sprouted into a multibillion-dollar industry in a world searching for security.⁵

⁴ Niccolò Machiavelli was no stranger to mercenaries in Northern Italy, and no doubt came into contact with them as the minister in charge of Florence's defences, 1503–06. He makes his opinions on mercenaries plain in Chapter XII of *The Prince*: 'they are disunited, ambitious, without discipline, unfaithful; gallant among friends, vile among enemies; no fear of God, no faith with men'. Carafano disputes this traditional account of Machiavelli on mercenaries, and argues that the early 'translators got it wrong': James Jay Carafano, *Private Sector, Public Wars: Contractors in Combat--Afghanistan, Iraq, and Future Conflicts* (Westport, CT: Praeger Security International, 2008), 19.

⁵ Blackwater Worldwide rebranded itself as Xe (and pronounced 'zee') on February 13, 2009. Xe stands for the chemical Xenon, an odourless, non-combustionable gas. However, Xe spokeswoman Anne Tyrrell said there was no meaning in the new name (Dana Hedgpeth, "Blackwater Sheds Name, Shifts Focus," *The Washington Post*, February 14, 2009). Xe rebranded itself again in December 2011 as 'ACADEMI'. To avoid confusion, this thesis will refer to Blackwater/ACADEMI simply as 'Blackwater'.

It is tempting to brand modern military firms as mercenaries akin to their predecessors, but direct comparisons are difficult. The free companies were far more brutal than modern private armies, following the customs of warfare in the Middle Ages.⁶ Modern companies also typically do not offer the relative level of offensive combat power that the free companies did. Nor are modern military corporations capable of independently waging military campaigns, as the free companies routinely did; today's companies generally assist large national armies in support roles rather than act as a stand-alone force, although this could change in the foreseeable future. Despite these important differences, it would be equally misguided to suggest that there is no resemblance between private armies of the Middle Ages and today. At their core both are for-profit actors on the battlefield, and when they have been hired their presence has complicated the outcome of wars and with it world politics in similar ways.

Not surprisingly, the rapid expansion of the private military industry in recent years has received copious attention in scholarship and popular literature alike. Yet despite the volumes of ink spilt on the subject, rigorous analysis remains thin. The military firms themselves are stubbornly opaque and their work is politically sensitive, meaning that there is no viable data on the

⁶Direct comparisons between the free companies of the Middle Ages and private military firms today is fraught with difficulty, since warfare has changed significantly in the past thousand years. For example, the measure of a war atrocity is greatly different. In 1377, mercenaries under John Hawkwood deliberately slaughtered more than 2,000 civilians as a punitive measure in the 'bloodbath' of the city of Cesena, which provoked ire against Pope Gregory XI. In comparison, Blackwater contractors killed seventeen Iraqi civilians in Bagdad by mistake in 2007, which sparked global outrage around the world. Such an act would merit little notice in the Middle Ages because the moral standards for warfare were more brutal.

industry overall. In the absence of real information, reactionary left-wing and right-wing ideological critiques have pervaded the discourse, politicising and polarising the debate. What genuine study has occurred is narrow and limited to a few aspects of the industry: the legal status of civilian armed contractors on the battlefield; accountability issues relating to monetary fraud, waste and abuse; and the experiences of high-profile companies such as Blackwater in Iraq and Afghanistan. Meanwhile, the broader questions remain relatively unexplored. Why have strong states elected to employ private military forces after centuries of their prohibition? Does the privatisation of war change warfare, and if so, how? What does the return of private armies augur for the future of international relations?

This thesis investigates these questions and contends that the parallels between the private military companies of the Middle Ages and modern era go beyond contract warfare. The return of private armies signifies a fundamental shift in the organisation and distribution of power within the international system. In the state-centric Westphalian world order, states are the only actors in international politics, the only subjects of international law, and the only entities that can legitimately use force to impose their authority. Mercenaries are strictly outlawed because they can threaten a state's monopoly of force to assert its authority. The re-emergence of private military force suggests a change in this system, toward a pre-Westphalian order when states did not enjoy the monopoly of force or special authority in world politics. Instead, the

international order is returning to the polycentric status quo ante of the Middle Ages, when authority was diluted and shared among state and non-state actors alike. But unlike in the European Middle Ages, the change is occurring on a worldwide scale.

The emerging world environment is best characterised as globalised neomedievalism: a non-state-centric, multipolar world of overlapping authorities and allegiances on a local and global scale. This does not imply worldwide atavism or recidivism. States will not disappear, but they are already mattering less than they did in the twentieth century, increasingly sharing the world stage with international organisations (IOs), non-governmental organisations (NGOs), multinational corporations (MNCs), politicised ethnic and religious groups, armed non-state actors, and super-empowered individuals. The return of private armies is a harbinger of this trend continuing and perhaps intensifying. This thesis explores the topic in five chapters:

Chapter 1 briefly examines the precepts of the Westphalian order, its dominance in international relations theory, its conceptual demise after the Cold War and the ensuing theoretical dissonance. Following this, the chapter reviews the intellectual lineage of neomedievalism as a metaphor to explain post-Westphalian international relations. It also considers gaps in the literature that this thesis aspires to fill—namely, considering neomedievalism as more than a metaphor if viewed through the prism of private armies.

Chapter 2 examines the evidence for neomedievalism and finds some substantiation for its emerging presence since the end of the Cold War. It uses the analytical framework devised by international relations theorist Hedley Bull in his book *The Anarchical Society* to test for neomedievalism. In this book Bull considers alternative models for world governance, such as ‘new medievalism’, but concludes the evidence lacked sufficient ‘utility and viability’ to displace the ‘international society’ of states.⁷ However, Bull was writing at the height of the Cold War, when global politics was dominated by two super-powerful states. Now that the Cold War is over and non-state actors play a larger role in world affairs, it is time to reassess Bull’s initial investigation. Accordingly, this chapter examines the evidence for neomedievalism using Bull’s five-fold framework: (1) the technological unification of the world, (2) the regional integration of some states, (3) the disintegration of other states, (4) the rise of transnational organisations and (5) the restoration of private international violence. Four of these five areas are well documented in post-Cold War scholarship. Conspicuously absent from the literature, however, is a rigorous analysis of the last characteristic of neomedievalism—the restoration of private international violence—due to lack of information on today’s emerging private military industry.

Chapter 3 investigates the restoration of private international violence in depth. It asks: Why has privatised force re-emerged after a 400-year hiatus?

⁷ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 2002), 245.

Why have strong states led this development rather than weak ones looking to consolidate their monopoly of force? What does this augur for the future of warfare and international relations? In search of answers, this chapter probes private military history—especially contract warfare during the Middle Ages—for parallels with today, examines the exile and return of private military actors over the past four centuries, analyses today's market for force, and considers the academic literature on the topic and its gaps. It also offers a new typology of contractors working in conflict zones that can help structure future thinking on the topic. Lastly, it finds parallels between the market for force in Middle Ages and today and elucidates the timeless advantages and disadvantages of contract warfare.

Chapter 4 examines how the private military industry functions within the emerging neomedieval order through the tragic case of Liberia, where the United States hired DynCorp International, one of the largest military companies in the world, to demobilise and then rebuild Liberia's military 'from the ground up' (the actual language taken from the US government contract) after Charles Taylor's exile in 2003. It is the first time in two centuries that one sovereign nation hired a private company to raise another sovereign nation's armed forces. This is an ideal case because Liberia is a microcosm of neomedievalism (albeit a worst case scenario), DynCorp is an excellent representative of the industry, Africa is a useful location since the industry will likely seek new markets there once the Iraq and Afghanistan 'bubbles burst',

and building armies is an area that the industry seeks to enter because it is more profitable than simple executive protection and convoy security. The case exposes some of the inner workings of private military industry, how these companies function, how they alter international outcomes and how the industry will behave in a larger neomedieval setting in the years to come.

Chapter 5 considers the implications of the return of private military actors to global politics, ramifications for the future of armed conflict and consequences for international relations, namely the emergence of globalised neomedievalism. It suggests that this shift in international relations will not result in chaos and anarchy but subsist in a kind of ‘durable disorder’ that contains rather than solves problems.⁸

Lastly, in the spirit of transparency, the author was a program manager for DynCorp International and played a principal role in the business development, conceptualisation and implementation of the company’s Liberia program from its inception in 2004. While critics may charge this unduly influences the objectivity of the analysis, an insider’s account is required since the private military industry is notoriously opaque and academics, journalists and others are reflexively denied access to data. This lack of information has led to serious misunderstandings regarding the private military industry and a sizable gap in the literature on the restoration of private international violence compared to the other four components of neomedievalism. This thesis

⁸The term ‘durable disorder’ was coined by Alain Minc and popularized in the English language by Philip Cerny: A. Minc, *Le Nouveau Moyen âge* (Gallimard, 1993); P.G. Cerny, “Neomedievalism, Civil War and the New Security Dilemma: Globalisation as Durable Disorder,” *Civil Wars* 1, no.1 (1998): 36-64.

aspires to help fill this gap and shed light on this murky industry. Only a former industry insider who is no longer beholden to its interests can reveal its inner machinations.⁹

The Rise and Fall of the Old World Order

To understand how the arena of international relations might be changing, it is first important to understand how it developed into the state-centric order we live under today. In 1648 the 'Thirty Years' War ended with the signing of the Peace of Westphalia, and supposedly gave birth, with Dutch jurist Hugo Grotius as midwife, to the modern international system of states. The orthodox reading of the Westphalian order holds that it delivered humanity from medieval anarchy by organising the world into distinct geopolitical units—states—that could claim absolute authority within their territorial boundaries while recognizing other states as global peers. The Westphalian order married legitimate sovereign rule to physical territory, organised by state, and stateless authorities like the Papacy retained no authority at all. Perhaps this is why Pope Innocent X referred to the Peace of Westphalia as 'null, void, invalid, iniquitous, unjust, damnable, reprobate, inane and devoid of meaning for all time'.¹⁰

Unfortunately for Innocent, the following four centuries saw the Westphalian state-centric model of sovereignty become the normative

⁹The author's views are his alone, and do not represent DynCorp International, the United States government, the government of Liberia or any other entity.

¹⁰Quoted in Norman Davies, *Europe: A History* (New York: Harper Collins, 1998), 568.

structure of international relations.¹¹ This international system of absolutist states created two spheres of politics: inside and outside the state.¹² To keep control inside their territory, states actively participated in constructing citizenship and nationalism, outlawing all armed non-state actors, such as mercenaries, who could physically threaten the government's existence. The state's exclusive claim to the use of violence to compel obedience is, according to Weber, the very definition of the state, which is 'a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory'.¹³

For international politics outside the state, sovereigns made treaties with other sovereigns, sometimes sought to expand forcibly into their neighbours' territory, and excluded other states from interfering in their internal politics. Over time, states developed stronger controls over their own borders and built professional and standing national armies to use violence against other states—that is, fight wars—or what Clausewitz famously explains as the 'continuation of politics by others means', 'a duel on a larger scale'.¹⁴ Clausewitz's seminal book *On War* is perhaps the best rationale of the

¹¹ The fundamental elements of state sovereignty were codified in the 1933 Montevideo Convention on the Rights and Duties of States and include three main components: a permanent population, a defined territory and a functioning government. An essential requirement of state sovereignty is the capacity to assert authority over state territory to the exclusion of other states. In accordance with Article 2 (1) of the UN (UN) Charter, the world organisation is based on the principle of the sovereign equality of all member states. In 1949 the International Court of Justice (ICJ) stipulated that 'between independent States, respect for territorial sovereignty is an essential foundation of international relations' (ICJ Reports, 1949, p. 4.) and it is 'the fundamental principle of state sovereignty on which the whole of international law rests' (ICJ Reports, 1986, para. 263).

¹² R.B.J. Walker, *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1992).

¹³ H.H. Gerth, and C. Wright Mills, ed., *From Max Weber: Essays in Sociology* (London: Routledge, 2003), 77-128.

¹⁴ Carl von Clausewitz, *On War* (Princeton, Princeton University Press, 1976), 87, 75.

Westphalian way of war, which is fundamentally between states. States seek to check other states' power through the Machiavellian calculus of national interests and balance-of-power politics, with military might as the ultimate arbiter. Stability is sustained by natural balancing within the system, as rival powers co-operate to prevent any single state from gaining too much power. Hence, the Westphalian order maintains global governance with the state as the prime actor in international relations.¹⁵

The canonical reading of the Westphalian world order has dominated international relations theory in Europe and North America for the last fifty years. In 1948, on the 300th anniversary of Westphalia, legal scholar Leo Gross published a widely read article that describes the treaty in utopian terms as 'the majestic portal which leads from the old into the new world' and credits it with 'the outstanding place...[in] the evolution of international relations'.¹⁶ On the treaty's 350th anniversary, David Boucher asserted that it 'provided the foundation for, and gave formal recognition to, the modern states system in Europe' and also 'sanctioned the formal equality and legitimacy of an array of state actors, while at the same time postulating the principle of balance as the

¹⁵ Balance of power theory is not unique to the Westphalian system and is as old as history itself. In the eighteenth century, Charles Davenant showed it was familiar to the ancients both as political theorists and as practical statesmen. However, today's understanding of balance of power theory holds that only states are the 'balancers' in world politics, as epitomised by the neorealist school. In the European Middle Ages and elsewhere, non-state actors also played a significant role in 'balancing' threatening powers.

¹⁶ Leo Gross, "The Peace of Westphalia, 1648-1948," *American Journal of International Law* 42, no. 1 (1948): 28, 26. This article was originally published in the *American Journal of International Law* and later included in a reader edited by Richard Falk and Wolfram Hanrieder (1968), and again in a posthumous collection of essays by Gross (1993). In the introduction to this last volume, the editor Alfred P. Rubin, writes that this essay remains 'timeless' and 'seminal'; it 'popularized the phrase and the notion of a "Westphalia constitution" for the international order' (Gross 1993, x). This even though Gross checked for and found little evidence in the language of the treaties to support his claims. For more critique on Gross, see: Andreas Osiander, "Sovereignty, International Relations, and the Westphalian Myth," *International Organization* 55, no. 2 (2001): 264-65.

mechanism to prevent a preponderance of power'.¹⁷ According to *The Penguin Dictionary of International Relations*, 'a number of important principles, which were subsequently to form the legal and political framework of modern interstate relations, were established at Westphalia. It explicitly recognized a society of states based on the principle of territorial sovereignty'.¹⁸ Hans Morgenthau claims that key 'rules of international law were securely established in 1648' and 'the Treaty of Westphalia ... made the territorial state the cornerstone of the modern state system'.¹⁹ In discussing the 'Westphalia principles', Seyom Brown states that 'even to this day two principles of interstate relations codified in 1648 constitute the normative core of international law: (1) the government of each country is unequivocally sovereign within its territorial jurisdiction, and (2) countries shall not interfere in each other's domestic affairs'.²⁰ Hendrik Spruyt affirms that 'the Peace of Westphalia ... formally acknowledged a system of sovereign states'²¹; Frederick Parkinson argues that the treaty 'spelt out in full the terms on which the new international diplomatic order was to be based'²²; Mark Zacher speaks of 'the Treaty of Westphalia of 1648 which recognized the state as the supreme or sovereign power within its boundaries and put to rest the church's

¹⁷ David Boucher, *Political Theories of International Relations: From Thucydides to the Present* (Oxford: Oxford University Press, 1998), 289, 225.

¹⁸ Graham Evans and Richard Newnham, *The Penguin Dictionary of International Relations* (London: Penguin Books, 1998).

¹⁹ Hans Morgenthau and Kenneth Thompson, *Politics Among Nations: The Struggle for Power and Peace* (New York: McGraw-Hill, 1985), 294.

²⁰ Seyom Brown, *International Relations in a Changing Global System: Toward a Theory of the World Polity* (Boulder: Westview Press, 1996), 74.

²¹ Hendrik Spruyt, *The Sovereign State and Its Competitors* (Princeton: Princeton University Press, 1996), p. 27.

²² F. Parkinson, *The Philosophy of International Relations: A Study in the History of Thought* (California: Sage Publications, Inc, 1977), 33.

transnational claims to political authority²³; and Michael Sheehan states that treaty ‘formally recognized the concept of state sovereignty’.²⁴ The list of quotes goes on.²⁵

The state-centric Westphalian order is also the dominant paradigm of global politics. It is so ingrained in policy-makers’ understanding of international relations that after the tragic events of 11 September 2001 many in the United States found it inconceivable that a non-state actor, al-Qa’ida, could orchestrate such an attack without help from a state. No less a figure than James Woolsey, the former director of the Central Intelligence Agency (CIA), said it was unlikely—if not impossible—for al-Qa’ida to act alone and without state sponsorship. In an interview with the television show *Good Morning America*, he said: ‘We particularly need to look hard at whether there may be some state—in my mind, most likely, Iraq—that is working together with bin Laden’s group’.²⁶ Nor was he alone. Others at the highest levels of the United States government spent years misguidedly looking for links between al-Qa’ida and states like Iraq but to no avail. The United States invaded Iraq in

²³ Mark W. Zacher, “The Decaying Pillars of the Westphalian Temple: Implications for International Order and Governance,” in *Governance Without Government: Order and Change in World Politics* ed. James N. Rosenau and Ernest-Otto Czempiel (Cambridge: Cambridge University Press, 1992), 59.

²⁴ Michael Sheehan, *The Balance of Power: History and Theory* (USA: Routledge, 1996), 38.

²⁵ See for example: Philip Kerr, “The Outlawry of War,” *Journal of the Royal Institute of International Affairs*, 7 (November 1928), 361-68; K.N. Waltz, *Man, the State, and War: A Theoretical Analysis*, rev. ed. (New York: Columbia University Press, 2001); F.W. Wayman and P.F. Diehl, eds., *Reconstructing Realpolitik* (Michigan: University of Michigan Press, 1994); M. E. Brown, O.R. Cote, Jr., S.M. Lynn-Jones, and S.E. Miller, eds., *Theories of War and Peace* (Massachusetts: The MIT Press, 1998); M.I. Midlarsky, ed., *Handbook of War Studies* (Boston: Unwin Hyman, 1989). A recommended critique of Westphalia that is consistent with this thesis is: E. Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics* (Cambridge: Cambridge University Press, 2002).

²⁶ “Transcript: Ex-CIA Director James Woolsey,” *Good Morning America*, October 10, 2010, accessed October 24, 2010, <http://abcnews.go.com/US/story?id=92346&page=1>. See also: Aram Roston, *The Man Who Pushed America to War: The Extraordinary Life, Adventures, and Obsessions of Ahmad Chalabi* (New York: PublicAffairs, 2009), 182.

part because of suspected ties between the regime and the terrorist organisation.²⁷ Such is the strength of the Westphalian orthodoxy and fervent bias towards states as the central political unit of international relations.

The Rise...

Even as its real effect on international relations is undeniable, the Westphalian order represents an ideal type rather than a historical actuality. Contrary to the frequent assumption in the international relations literature, the language of the treaties of Munster and Osnabruck, which comprise the Peace of Westphalia, does not clearly articulate an international system of states.²⁸ The centuries between 1400 to 1700 witnessed the gradual consolidation of political authority from the fragmented sovereignty of the Middle Ages—where the church, emperor, king, princes, cities, monasteries and the like all made competing and overlapping claims of authority—to a centralized system under which states claimed the sole authority to make rules, enforced through their claim to the monopoly of force.²⁹ Under the Westphalian ideal, states were the only actors in international politics and the only subjects of international law.

²⁷ For example, in the lead up to the Iraq War US President George W. Bush alleged that Iraqi President Saddam Hussein and al-Qa'ida 'have had high-level contacts that go back a decade' and 'Iraq could decide on any given day to provide a biological or chemical weapon to a terrorist group or individual terrorists. Alliance with terrorists could allow the Iraqi regime to attack America without leaving any fingerprints'. See: The White House, "President Bush Outlines Iraqi Threat", *Press release*, October 7, 2002.

²⁸ Osiander, "Sovereignty, International Relations, and the Westphalian Myth," 265.

²⁹ Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns* (Princeton: Princeton University Press, 1996), 223.

As John Gerard Ruggie explains, in states ‘the public domain, the interstate sphere, and the realm of governance were largely coterminous’.³⁰

Over time, the states’ mutually buttressing claims—political authority and monopoly of force—grew strong enough that the state became the dominant actor in world politics, making the provision of security a crucial historical variable in the rise of the state. According to Charles Tilly, states arose as a ‘security racket ... trading protection to merchants and others in returned for revenues and other services, and in the process for providing a framework for the organisation of production, exchange and accumulation’.³¹ Mancur Olson describes the state as a ‘stationary bandit’ that evolved from ‘roving bandits’. Under this metaphor, roving bandits plunder the goods of others and move on to their next victim, creating a Hobbesian anarchy, while stationary bandits, operating under a tyranny, exploit locals like a mafia crime lord yet also enjoy a stable life not ‘on the run’. However, this gives the stationary bandit an incentive to provide some semblance of government, as he must protect his community from roving bandits.³² Similarly, the state outlawed and stigmatised competing armed actors, such as mercenaries and pirates, who could threaten the ruler’s security racket.³³ The Papacy, once the powerful adversary of kings and princes in the Middle Ages, lost all territorial

³⁰ John Gerald Ruggie, “Reconstituting the Global Public Domain—Issues, Actors, and Practices,” *European Journal of International Relations* 10, no. 4 (2004): 505.

³¹ Charles Tilly, “War Making and State Making as Organized Crime,” in *Bringing the State Back In*, ed. Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge: Cambridge University Press, 1985): 169–191, 212.

³² Mancur Olson, *Power and Prosperity: Outgrowing Communist and Capitalist Dictatorships* (Basic Books, 2000).

³³ This phenomenon will be discussed in Chapter 3.

control by 1870, and its authority was largely relegated to the sphere of morality. By the end of the nineteenth century, the Westphalian state system had completely replaced the medieval order.

At the beginning of the twentieth century European states were empires of such strength that they could successfully make claims to controlling territory and monopolising violence beyond their borders and into Africa, Asia and the Americas. From 1880 to 1914 European state politics played out on a global scale, in the crises of Fashoda, various Balkans wars on the Hapsburg-Ottoman frontier, the Great Game of Anglo-Russo competition in Central Asia and economic competition in China. New and non-European states also sought a place in the new world order, as the United States and Japan embarked on colonial conquests and even bested European powers on occasion, in the Spanish-American War (1898) and the Russo-Japanese War (1904-05). European state hegemony went so far that France, under the Second Republic, declared Algeria an integral part of its own territory.

The Great War of 1914-18—World War I—is an extreme expression of Clausewitzian warfare between industrialized states. It was labelled the first world war because its battlefields spanned the globe, by then mostly colonized by European powers.³⁴ In addition to the horrific losses of life in battles such as the Somme, Verdun, Gallipoli and Jutland, World War I also claimed the Hapsburg and Ottoman empires as casualties and seriously enfeebled Germany, which lost all its colonies and was made to pay debilitating war

³⁴ Arguably, the Seven Years War (1756–63) was actually the first world war between states.

reparations under Article 231 (the so-called war guilt clause) of the Treaty of Versailles in 1919. However, this heinously destructive test of the Westphalian order did not invalidate it. In one generation, Japan's imperial pursuits put it in direct competition with the United States, Italy's imperial conquests took it deep into northeast Africa, and Germany rebounded to threaten European powers once more under the Nazi regime.

On the first of September 1939, World War II erupted and marked the zenith of the Westphalian order and the extreme of Clausewitzian warfare. The war's toll knew no clemency. The Axis countries of Germany and Japan suffered total defeat and occupation by other states, and Italy was rendered ineffectual as a world power. The Allied countries of Britain and France were also grievously wounded and retreated from their colonies in the decades to follow. The Suez Canal crisis in 1956 demonstrated that the old-world powers were no longer the leading actors on the world stage, replaced by the younger United States and Soviet Union. However, warfare had changed significantly. Armed with world-destroying nuclear weapons, the United States and Soviet superpowers sought power without tempting direct confrontation, and therefore fought a cold war through allied states, proxy wars, and economic competition. Not surprisingly, international relations thinking during this era remained state-centric, from the English School to the political realism of Hans Morgenthau and George Kennan to the idealism of E.H. Carr, which still held the state as the principal actor in world politics.

...and Fall

In 1989 the Berlin Wall fell and the Cold War ended, leaving a single state standing, the United States. To some observers this signified the everlasting triumph of the liberal-democratic state over all others and the Darwinian resolution of the Westphalian system. In a widely read article and bestselling book, *The End of History and the Last Man*, Francis Fukuyama asserted that the end of the Cold War was nothing short of the ‘end of history’.³⁵ Noting that the historical origins of the phrase can be found in the writings of Hegel and later Marx, Fukuyama argued that the advent of Western liberal democracy may have signalled the terminus of humanity’s sociocultural evolution and the ultimate structure of government: ‘what we may be witnessing is not just the end of the Cold War, or the passing of a particular period of post-war history, but the end of history as such: that is, the end point of mankind’s ideological evolution and the universalisation of Western liberal democracy as the final form of human government’.³⁶

Unfortunately for Fukuyama, the future also had a say: with a single victor under the Westphalian order, the world grew more chaotic. The liberal-democratic enterprise did not spread to weaker states within the international system, naturally buttressing it; instead, many weaker states faltered even more. Some states lost control of their territory, as in the conflicts in the Balkans,

³⁵ For the article, see: Francis Fukuyama, “The End of History?” *The National Interest*, (Summer 1989): 3-18. For the book: Francis Fukuyama, *The End of History and the Last Man* (Free Press, 2006). Fukuyama maintained this position throughout the 1990s, and even after the events of 11 September 2001: F. Fukuyama, “History and September 11,” in *Worlds in Collision: Terror and the Future of Global Order*, ed. Ken Booth and Tim Dunne (New York: Palgrave MacMillan, 2002), 28.

³⁶ Francis Fukuyama, “The End of History?,” 4.

Indonesia and Western Sudan. Some states, such as Liberia and Somalia, failed altogether. Weak states by definition have lost their monopoly of force, resulting in intrastate conflicts and large swaths of ungoverned spaces in which armed non-state actors—separatist groups in northern Mali, pirates in Somalia and violent extremists in Yemen—have almost free rein. International criminal organisations exploit weak states, such as the narco-state of Guinea Bissau. Transnational terrorists such as al-Qa’ida threaten weak and strong states alike.

The character of warfare is also changing, as conflicts are fought over identity and other intangibles rather than territory, a significant departure from the Westphalian-Clausewitzian way of war, which is primarily concerned with claiming territory as a measurement of sovereignty. Rather than fighting for traditional national interests, such as a capital city, modern wars are often fought by and for one ethnic group against another ethnic group.³⁷ According to the Peace and Conflict Instability Ledger of 2010, there are at least 132 minority groups actively seeking independence from their host countries, and eighteen of these groups employ violence to achieve such change.³⁸ Militaries no longer fight other militaries, and in the contemporary system an estimated 90 per cent of casualties of warfare are civilians.³⁹

³⁷ Ethnic here indicates a broad category of political organisation that may include cultural, tribal, religious, geographical, linguistic, ideological and other related concerns.

³⁸ J. Joseph. Hewitt, et al., *Peace and Conflict 2010* (College Park, MD: Boulder Center for International Development and Conflict Management, University of Maryland Paradigm Publishers, 2010), 5.

³⁹ Adam Roberts, “Lives and Statistics: Are 90% of War Victims Civilians?,” *Survival* 52, no. 3 (2010): 115-36; see also Cristian Cantir and Philip Schrodt, “Neomedievalism in the Twenty-First Century: Warlords, Gangs and Transnational Militarized Actors as a Challenge to Sovereign Preeminence (paper, New Orleans, LA, 2010), 4.

Sovereignty is eroding not only inside states; it is also being corroded from outside them. After the Cold War ended, non-state actors like the UN began to interfere in the domestic politics of states in direct contravention of its own charter, which enshrines the Westphalian principle of non-interference in the domestic politics of states.⁴⁰ The UN even authorized the most extreme of intrusions: military intervention into a state's sovereign territory against its will as seen in Northern Iraq, Rwanda, Somalia, the former Yugoslavia (Bosnia), Haiti, Liberia, Kosovo and Sierra Leone. Also, multinational companies such as the Fortune 500 have greater political sway in world affairs today than a half-century ago—greater, perhaps, than some states. It can hardly be argued that the Gabon is more influential than Exxon Mobil. Similarly, there are now some 25,000 international NGOs with programs in almost every corner in the world.⁴¹ Their individual purposes range widely, from providing humanitarian services to acting as watch dogs of states' alleged bad behaviour. Amnesty International, which monitors states' human rights violations, has over a million members in some ninety countries and territories and a research staff of more than 300, and it has become effective at bringing international pressure to bear on regimes through adroit worldwide media name-and-shame campaigns. NGOs have shaped international relations in

⁴⁰ Article 2 (4) on the UN Charter stipulates: 'All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state'. Article 2 (7) stipulates: 'Nothing contained in the present Charter shall authorize the UN to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII'.

⁴¹ Joel Krieger, ed., *The Oxford Companion to Politics of the World*, 2nd ed. (Oxford: Oxford University Press, 2001), 599.

other ways too. The International Campaign to Ban Land Mines, a coalition of NGOs, was the prime mover in the Mine Ban Treaty of 1997 and won that year's Nobel Peace Prize in recognition of its efforts.

A good illustration of the decline of the Westphalian order and the changes in the current international system is phenomenon of fragile states. In the Westphalian system, according to realists, weak states represented an opportunity for stronger states to claim more territory by subsuming, controlling or otherwise annexing them. The age of European colonialism was partly driven by this rationale. Yet since the Cold War ended, strong states have generally avoided becoming enmeshed in the internal dynamics of weak states. Few states wished to intervene in the Rwandan genocide of 1994, and even regional neighbours with realists' interests found the idea of capturing the country unappealing. There is no better evidence of the threat posed by fragile states than the United States' own assessment of the situation. In a complete reversal of Clausewitzian Cold War thinking, the National Security Strategy of 2002—the cornerstone document of United States strategy—plainly states that ‘America is now threatened less by conquering states than we are by failing ones’.⁴²

In the contemporary system, when intervention does occur it is usually by non-state actors. Typically, NGOs help identify a need for intervention and petition international organisations, not strong states, to establish a

⁴² George W. Bush, “The National Security Strategy of the United States of America,” (Washington, DC: The White House, 2002), p. 1.

peacekeeping mission, the objective of which is to re-establish order rather than conquer of territory. NGOs such as Save Darfur pressured the international community through a globalised media campaign that helped form a joint UN and African Union (AU) peacekeeping mission to end the ongoing genocide in Darfur. Another international body, the International Criminal Court (ICC), issued an arrest warrant for Omar Hasan Ahmad al-Bashir, the president of Sudan, for the crime of genocide. Multinational companies such as Pacific Architects and Engineers have supported these ongoing missions by building, maintaining and operating the bases used by the peacekeepers. Clearly, states are no longer the sole actors in international relations as once conceived under the Westphalian system.

The State is Dead, Long Live the State!

In the twenty years since Fukuyama's end of history, it seems that state sovereignty is eroding on most fronts, and thus, the Westphalian system with it. The problems with the Westphalian order in the post-Cold War world have raised serious doubts regarding its long-term viability, and many have suggested that we have entered a post-Westphalian era, spawning a surge in debate among theorists. At one of the spectrum, some have pronounced the state dead, from professor and businessman Kenichi Ohmae, in his book *The End of the Nation State*, to the president of the European Union (EU), Herman Van Rompuy, who declared that 'the time of the homogenous nation state is

over'.⁴³ At the other end of the spectrum are those who dismiss the decline of the state, like reports of Mark Twain's death, as an exaggeration, and think it is 'too early to schedule a wake for the sovereign-state system'.⁴⁴

Yet Fukuyama has reconsidered his earlier position. As an intellectual leader in the neoconservative movement and founding member of the influential neoconservative think tank Project for the New American Century, he supported the wars in Iraq and Afghanistan and subsequent nation-building efforts there.⁴⁵ Even as Iraq devolved into pandemonium, he continued to maintain his faith that the West offers an 'attractive package' of 'the material prosperity of market economies and the political and cultural freedom of liberal democracy'.⁴⁶ However, he finally abandoned this conviction in 2006, during the nadir of the Iraq War and its apparent rejection of democracy as expected by him. That same year he recanted his neoconservative beliefs and many of the ideas that informed his earlier writings: Neoconservatives, he wrote in *The New York Times*, 'believed that history can be pushed along with the right application of power and will. Leninism was a tragedy in its Bolshevik version, and it has returned as farce when practiced by the United States.

⁴³ Kenichi Ohmae, *The End of the Nation State: The Rise of Regional Economies* (New York: Free Press Paperbacks, 1995); Daniel Martin, "Nation States Are Dead: EU Chief Says the Belief That Countries Can Stand Alone is a 'Lie and an Illusion'," *The Daily Mail*, November 11, 2010.

⁴⁴ Stephen D. Krasner, "Abiding Sovereignty," *International Political Science Review* 22, no. 3 (2001): 229-51.

⁴⁵ The original signers of the Project for the New American Century's statement of principles in 1997 were Elliott Abrams, Gary Bauer, William J. Bennett, Jeb Bush, Dick Cheney, Eliot A. Cohen, Midge Decter, Paula Dobriansky, Steve Forbes, Aaron Friedberg, Francis Fukuyama, Frank Gaffney, Fred C. Ikle, Donald Kagan, Zalmay Khalilzad, I. Lewis Libby, Norman Podhoretz, Dan Quayle, Peter W. Rodman, Stephen P. Rosen, Henry S. Rowen, Donald Rumsfeld, Vin Weber, George Weigel and Paul Wolfowitz.

⁴⁶ Francis Fukuyama, ed., *Nation-Building: Beyond Afghanistan and Iraq* (Baltimore, MD: The Johns Hopkins University Press, 2005), 2-3.

Neoconservatism, as both a political symbol and a body of thought, has evolved into something I can no longer support'.⁴⁷

Some scholars view the role of the state as shifting from the primary authority in international relations to an enforcement agency for decisions other actors make within the system. This polyarchical decision-making network creates governance gaps that challenge the system as a whole, demanding greater multifunctional co-ordination mechanisms. According to Ruggie, 'other social actors are drawn into playing public roles to compensate for governance gaps and governance failures at global and national levels — though it must be said that in some instances those gaps and failures exist in the first place because the private sector has succeeded in curtailing the scope of the public sector'.⁴⁸ As governance has replaced government, the ability to reach collective decisions or agreements on complex issues has diminished and 'entropy' within the system has increased.⁴⁹ Establishing global agreement on key social, economic, justice, security and environmental issues has proven elusive and time consuming.

Many view the Westphalian state undergoes not only a change in role, but a more fundamental transformation, in the aftermath of the Cold War. Philip Bobbitt argues that territorial sovereign state has become obsolete in the increasingly borderless world of globalisation and has been replaced by the

⁴⁷ Francis Fukuyama, "After Neoconservatism," *The New York Times*, February 19, 2006.

⁴⁸ Ruggie, "Reconstituting the Global Public Domain," 30.

⁴⁹ Cerny, "Neomedievalism, Civil War and the New Security Dilemma," 49; see also Mark Duffield, "Post-Modern Conflict: Warlords, Post-Adjustment States and Private Protection," *Civil Wars* 1, no. 1 (1998): 70.

‘market-state’, in which the relationship between the government and its citizens resembles that between a corporation and consumers.⁵⁰ Robert Jackson contends that poorer Westphalian states, especially in the developing world, are morphing into ‘quasi-states’ where government institutions are weak and the states subsist on the largesse of the international community, which he argues rewards incapacity and inequality with additional aid, making quasi-states shells of ‘negative sovereignty’.⁵¹ Ulrich Beck is less pessimistic; he believes the traditional state is ‘antiquated but also indispensable’ and should give way to ‘transnational states’ that are ‘strong states, whose power to shape politics develops out of co-operative answers to globalisation.’⁵² Unlike traditional Westphalian states, transnational states are not islands of supreme authority but garner power by working across boundaries, geographical or otherwise, with other globalised entities. These and other conceptions of the state in transformation all recognize the possible obsolescence yet current necessity of states as the basic unit of global political organisation.

However, others loosen the state’s primary position in the international system by emphasizing its historical contingency. Friedrichs suggests that the sovereign state system may be a historically unique anomaly which ‘had a beginning, and will also have an end’ and Korbrin observes that ‘territorial

⁵⁰ Phillip Bobbitt, *The Shield of Achilles: War, Peace, and the Course of History* (USA: Anchor Books, 2002); Phillip Bobbitt, *Terror and Consent: The Wars for the Twenty-First Century* (New York: Alfred A. Knopf Inc., 2008).

⁵¹ Robert H. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1993).

⁵² Ulrich Beck, *What is Globalization?* (Cambridge: Polity Press, 2000), 108.

sovereignty is not historically privileged'.⁵³ A historical understanding can disabuse us of the notion that the state is timeless and natural, as history is replete with alternative models of human political organisation, from tribes to kingdoms to empires.⁵⁴ Others dismiss the evolutionary nature of the state, seeing it as a construction derivative of a specific place and time. Both Wight and Rosenberg trace the gradual development of the state system from the Peace of Lodi (1454) that founded the Italian Concert and the first system of collective security to the Congress of Utrecht (1713) when, as Wight observes, 'the state system is there'.⁵⁵ Similarly, Spruyt views the emergence of the sovereign state as occurring not during the Peace of Westphalia but centuries earlier in France, where it competed against several other types of political organisation in Europe: church, feudal lords and empire. The state was not a successor to but rather a competitor against these other forms of political organisation, and eventually emerged as the dominant force in Europe due to its superior ability to exploit trade. Guéhenno argues that the state is a passing political form, 'a European exception, a precarious transition between the age of kings and the "neo-imperial" age'.⁵⁶ Agnew reminds us that 'the spatial

⁵³ Jörg Friedrichs, "The Meaning of New Medievalism," *European Journal of International Relations* 7, no. 4 (2001): 481.; S.J. Kobrin, "Back to the Future: Neomedievalism and the Postmodern Digital World Economy," *Journal of International Affairs* 51, no. 2 (1998): 364.

⁵⁴ For more on the state's historicity, see: J. Agnew, "The Territorial Trap: The Geographical Assumptions of International Relations Theory," *Review of International Political Economy* 1, no. 1 (1994): 65; J. Thomson, *Mercenaries, Pirates, and Sovereigns*, 2; and J. Rosenberg, *The Empire of Civil Society: A Critique of the Realist Theory of International Relations* (Verso Books, 1994), 36.

⁵⁵ Rosenberg, *The Empire of Civil Society: A Critique of the Realist Theory of International Relations*, 39; Martin Wight, *Systems of States* (Leicester University Press, 1977), 129.

⁵⁶ Jean-Marie Guéhenno, *The End of the Nation-State*, trans. Victoria Elliott (Minneapolis: University of Minnesota Press, 1995), 4.

scope of political organisation has not been set for all time in a particular mode. The territorial state is not a sacred unit beyond historical time'.⁵⁷

Still others contend that Westphalia is a myth altogether. Krasner dismisses the link between 1648 and the creation of the state, claiming that 'the conventional view that the Peace of Westphalia of 1648 marks a turning point in history is wrong', although in a later books he softens this stance a bit by using the term 'Westphalian sovereignty' while acknowledging its historical inaccuracy.⁵⁸ Others are less soft. Keene dissects the intellectual genealogy of the state system and concludes it is 'good propaganda' developed by counter-revolutionaries 200 years ago in their struggle to contain the French Revolution, the Napoleonic imperial system and French expansionism.⁵⁹ Osiander goes even further: 'We cannot be moving "beyond Westphalia"', he bluntly avers, 'if "Westphalia" as generally understood today in IR [international relations theory] is really a figment of the nineteenth-century imagination, stylised still further, and reified, by the discipline of IR itself in the twentieth century'.⁶⁰ P. Michael Phillips concurs: 'The treaties were no more a "majestic portal" to a new world of law and reason than was C. S. Lewis's magic wardrobe an entry to the land of Narnia, where animals talk'.⁶¹

⁵⁷ Agnew, "The Territorial Trap," 65.

⁵⁸ Stephen D. Krasner, "Westphalia and All That," in *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*, ed. Judith Goldstein and Robert O. Keohane (Cornell, NY: Cornell University Press, 1993), 235; Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), 82.

⁵⁹ Keene, *Beyond the Anarchical Society*, 16.

⁶⁰ Andreas Osiander, "Sovereignty, International Relations, and the Westphalian Myth," 284. See also: Benno Teschke, *The Myth of 1648: Class, Geopolitics, and the Making of Modern International Relations* (Verso Books, 2003).

⁶¹ P. Michael Phillips, "Deconstructing Our Dark Age Future." *Parameters* Summer (2009): 96. The reference to a "majestic portal" alludes to Leo Gross, "The Peace of Westphalia, 1648-1948," *American*

One theme throughout this rich debate is clear: The strong hegemonic claims of the Westphalian order are no longer absolute in the post-Cold War era. Non-state actors are now also political actors on the world stage, making an international state-centric system impossible. At the same time, alternative and often older conceptions of political order along ethnic, cultural, tribal and religious lines of identification are re-emerging and even eclipsing identity based on nationality. State-centric theories can no longer satisfactorily account for these changes, and an alternative model is needed to comprehend the shifting world we inhabit.

The Post-Westphalian World: Globalised Neomedievalism

As mentioned above, globalised neomedievalism describes a non-state-centric, multipolar international system of overlapping authorities and allegiances on a simultaneously local and global scale. The concept is loosely based on the world order of the high European Middle Ages, in which international relations are not dominated by states; it is globalised in the sense that the dynamic shapes global politics rather than those of a single continent.⁶² The

Journal of International Law 42, no. 1 (1948): 28. The reference to the wardrobe used as the magic portal from the real world to the magical Kingdom of Narnia is from C. S. Lewis, *The Lion, the Witch, and the Wardrobe* (New York: Harper Collins, 2005).

⁶²The European Middle Ages is typically thought to span from the fall of the Roman Empire (476 CE) to the Renaissance (c. 1500 CE). Additionally, historians tend to differentiate between the Early, High, and Late Middle Ages. The Early Middle Ages (c. 400–1000) saw the continuation of trends set in late antiquity leading to the decline of the Western and Eastern Roman Empires, such as depopulation, deurbanisation and increased barbarian invasion. Later it also established the feudal system, allowing a return to systemic agriculture. The High Middle Ages (c. 1000–1300) experienced the increased influence of the Church in all aspects of life, from art and architecture to the Crusades to recapture the Holy Land. The emergence of the state was slowed by the power of international Christendom. Also during this period, scholastic philosophers attempted to reconcile faith and reason, codes of chivalry and courtly

multiplicity of actors within this system combine to create a durable disorder, in which a single authority can neither impose greater stability nor cause the system to collapse.

The Neomedieval Imagination

The idea of a new Middle Ages might make some instinctively recoil, as the concept has been long abused over the centuries, starting with the Enlightenment's branding it the Dark Ages in what might be considered a propagandist ploy. For many it signifies little more than ignorance, stagnation, and barbarism on a continental scale, as professed by one of history's greater pessimists, Friedrich Nietzsche: 'I am greatly worried about the future in which I fancy I see the Middle Ages in disguise'.⁶³ Given the wars of the twentieth century, Nietzsche was prescient to worry about the future but unfair to compare it to the medieval era, which was far more complex, rich and vivacious than he suggests.

For Nietzsche, the Middle Ages connote insecurity, but for others they signify past glory. Composer Richard Wagner, Nietzsche's one-time mentor, dedicated much of his life to writing a cycle of four epic operas, or music-dramas, as he termed them, titled *The Ring of the Nibelung*, based on medieval Norse sagas and the *Nibelungenlied*. Later, these and other medieval images

love emerged to govern appropriate behaviour and the use of mercenaries was widespread. The Late Middle Ages (c. 1300–1500) witnessed state resurgence, the Hundred Years War and a crisis within the Church resulting in the Western Schism. Mercenaries remained common but the beginnings of the modern standing armies emerged during this period.

⁶³ Quoted in: Christopher Coker, *War and the 20th Century: A Study of War and Modern Consciousness* (Potomac Books, 1994), 171.

became the allegorical bedrock for much of the Nazi aesthetic, led by Adolf Hitler, a failed artist and fervent admirer of Wagner. Beyond Hitler's shared anti-Semitism with the composer, he frequently attended Wagner operas at the Bayreuth festival, where King Ludwig II of Bavaria, another medieval romantic and builder of the fantastical Neuschwanstein castle, had constructed a special theatre to enshrine Wagner's music-dramas. Wagner's heirs were ardent supporters of Hitler and furnished him paper for writing *Mein Kampf* during his imprisonment.⁶⁴ German and Austrian fascination with medieval legends went beyond Wagner and informed occult Aryan secret societies that began in the fin de siècle period and later influenced Nazi ideology. The Order of the New Templars, the Edda Society, and the writings of Guido von List and Jörg Lanz von Liebenfels anticipated many of the political doctrines and institutions of the Third Reich.⁶⁵ Fortunately, such abuses of medieval history came to a fiery end in 1945, as Berlin burned like Valhalla at the end of *The Ring of the Nibelung*.

The allure of the Middle Ages is not unique to Nazis and inspired countless other fancies too, including J.R.R. Tolkien's *The Lord of the Rings*, which spawned an entire genre of fantasy literature, film, and games in the twentieth century: the *Harry Potter* books, *The Chronicles of Narnia*, *Excalibur*, *Dragon Slayer*, *Dragonquest*, *Dungeons and Dragons*, *Ladyhawke*, *Tristan and Isolde*, to name a few. The reams of pseudo-medieval pulp that line bookstores and fill movie scripts demonstrate that the Middle Ages is anything but dead in

⁶⁴ Frederic Spotts, *Hitler and the Power of Aesthetics* (USA: Overlook Press, 2003), 248.

⁶⁵ For more on this theme see: Nicholas Goodrick-Clarke, *The Occult Roots of Nazism: Secret Aryan Cults and their Influence on Nazi Ideology* (New York: New York University Press, 1993).

popular culture. Medievalist Umberto Eco identifies ten types of Middle Ages in the popular imagination: as a pretext or setting for a story; as an ironic revisitation of our past to speculate about our cultural infancy or senility; as a barbaric age; as a romantic age; as the *philosophia perennis* of the Church; as national identity (e.g., the Third Reich); as an era of doomed decadence; as philological reconstruction; as tradition, exemplified by the Knights Templar, Rosicrucians, or neo-Kabbalists; and as expectation of the millennium and end of time.⁶⁶ Ultimately, the past is what the present makes of it. As Christopher Coker observes, ‘the Middle Ages that lived in the twentieth-century imagination was interpreted in strictly twentieth-century terms, in that unique way employed by the modern era of looking at history as the creation and invention of modern man’.⁶⁷

Neomedievalism in International Relations Theory

The Middle Ages has also made an appearance in international relations theory. The notion of neomedievalism was first introduced by Francis Wormuth shortly after World War II and was followed by Arnold Wolfers in 1965. For Wormuth, neomedievalism meant disorder. He used it to articulate a possible dystopian future for Europe, which could have reacted to the horrors of World War II by rejecting modernity and reverting back to the old regime of the Middle Ages. Such a development would entail non-state actors, such as

⁶⁶ Umberto Eco, “Travels in Hyperreality,” (1990): 61–72.
<http://public.clunet.edu/~brint/American/Eco.pdf>.

⁶⁷ Coker, *War and the 20th Century*, 172.

the Church, once again entering the political sphere and undermining state authority and the international state system. Wormuth interpreted the post-war European political landscape as the ‘reassertion of the theocratic and authoritarian ideal of the Middle Ages in Spain [and the] convulsive reaction against modernism in Italy, Germany, and Austria’. He noted the rise of powerful Christian democratic parties throughout the continent, which he claimed were ‘dedicated to a return to the Middle Ages and supported by the largest single Christian Church’.⁶⁸ Given these assumptions, he direly saw the world plunged back into violent barbarism, where religious dogma would trump secular reason and those holding unorthodox opinions would be burned at the stake.

Fortunately, Wolfers’s treatment of neomedievalism was more measured than Wormuth’s. Wolfers conceptualized it as an alternative to the Westphalian state-centric approach to international relations theory, arguing that future generations might find medieval thinkers such as St. Augustine and Dante more relevant to international affairs than present-day theorists, since the future could have more in common with the past than the present. It was not ‘fantastic’, he argued, to imagine a future in which the system of sovereign states gave ground to a nebulous and unstructured international system, which he termed *new medievalism*. Such a development would ‘blur the dividing lines

⁶⁸ Francis D. Wormuth, “Return to the Middle Ages,” *The Western Political Quarterly* 2, no. 2 (1949): 195.

between domestic and foreign policy' and produce a world of 'double loyalties and overlapping realms of power'.⁶⁹

Ultimately, Wolfers dismissed new medievalism as insufficient to describe global politics in the early 1960s, instead reaffirming the belief of the day that the interstate system remained fundamental to international relations. Moreover, he envisioned the trajectory of the Westphalian system extending beyond the handful of strong states in the developed world and into developing countries. This conclusion is not surprising given that he was writing at the apogee of the Cold War, a very Westphalian-Clausewitzian engagement, in an academic field dominated by state-oriented realists who were also witnessing the decolonisation of Africa and other continents and expected the former colonies to evolve into strong states. Even the pejorative terms used to describe these emerging polities as *third world* and *undeveloped* belie the evolutionary assumptions built into Westphalian theory. The very idea of a stateless medieval international-relations theory must have seemed oxymoronic to many of Wolfers's peers, since global politics was generally conceived as interstate by nature. As E.H. Carr noted, it was difficult for his contemporaries to imagine a world where political power was not determined on the basis of the state and territorial control.⁷⁰ Regardless of Wolfers's conclusions, history has developed in directions he initially hypothesized.

⁶⁹ Arnold Wolfers, *Discord and Collaboration: Essays on International Politics* (Johns Hopkins P, 1965), pp. 241–42.

⁷⁰ E.H. Carr, and Michael Cox, *The Twenty Years' Crisis, 1919-1939: An Introduction to the Study of International Relations* (New York: Palgrave Macmillan, 2001), 229.

Hedley Bull picked up the mantle of neomedievalism in the mid-1970s in his seminal work, *The Anarchical Society*. In this book, he explored several alternative models of world order that he compared and contrasted to the Westphalian state system, including Wolfers's new medievalism.⁷¹ In the case of new medievalism, he imagined a future where 'sovereign states might disappear', replaced by 'a system of overlapping authority and multiple loyalty'.⁷² Such a system would seem to invite instability and even anarchy, but it was balanced and centred, according to Bull, by the dual universalism of empire and Church. In such a world order, no single ruler or state was sovereign in the sense of being supreme over a given territory and its contained population, akin to the modern state. Instead several authorities—Holy Roman Emperor, pope, prince, city-state, monastic order, guild, and so forth—shared or competed for authority over vassals and resources in a single geographical area. According to Bull, a neomedieval world order could be said to exist

if modern states were to come to share their authority over their citizens, and their ability to command their loyalties, on the one hand with regional and world authorities, and on the other hand with sub-state or sub-national authorities, to such an extent that the concept of sovereignty ceased to be

⁷¹ Bull, *The Anarchical Society*, 254-55, 264-76. Bull considered four other alternatives too: 'the disarmed world', in which a single global authority mediates order between states that limit the use of violence to internal security; 'the solidarity of states', based on Grotius, which lacked a central global authority but collective security was ensured through a concert of states; 'a world of many nuclear powers', in which nuclear weapons are held by most states and mutually ensured destruction acted to prevent armed conflict; and a world of ideological homogeneity.

⁷² Ibid, 254.

applicable, then a neo-mediaeval form of universal political order might be said to exist.⁷³

Such a world order characterised by the multiplicity of authorities and allegiances ‘represents an alternative to the system of states’.⁷⁴

After consideration, Bull dismissed the presence of neomedievalism in the world for lack of evidence—again not surprising given that he was writing during the Cold War, when states reigned supreme in both international relations theory and practice. He conceded that a secular ‘neo-medieval order’ might be possible, and that armed non-state actors such as the East India Company, papal states until 1870, and Barbary corsairs had played a role in the Westphalian system.⁷⁵ Despite these factors, he doubted that neomedievalism would be more orderly than the international society of states, and therefore rejected the idea as lacking sufficient ‘utility and viability’ to displace the state system of his day.⁷⁶ However, he acknowledged, ‘our view of possible alternatives to the states system should take into account the limitation of our own imagination and our own inability to transcend past experience’.⁷⁷

Neomedievalism lay dormant until after the Cold War, which left only one major superpower—the United States—standing after centuries of competition among great powers. As noted earlier, to some this event marked the victory of the liberal democratic state as the ultimate form of human government and the ‘end of history’, denoting a peaceful international order

⁷³ Ibid, 246.

⁷⁴ Ibid, 254.

⁷⁵ Ibid, 255, 275.

⁷⁶ Ibid, 246, 255.

⁷⁷ Ibid, 256.

forever more.⁷⁸ Other theorists were less sanguine, and observed the exact opposite: Rather than marking the zenith of the Westphalian system and world peace, they warned that the state system was perilously in danger of fragmentation and even disintegration. Martin van Creveld noted this development as early as 1991, observing a decline in Clausewitzian interstate warfare without a comparable decline in organised violence. He concluded that as fragile states eroded, they would lose their monopoly of force and armed non-state actors would concomitantly rise to challenge states and each other. This in turn would transform warfare from Clausewitzian campaigns to persistent low-intensity conflict fought by non-state actors, such as insurgents, terrorists, militias, and bandits. Moreover, unlike Clausewitz's famous dictum that all war is political, these 'new wars' might or might not have a political aim. For some combatants, the end of warfare is war itself. Lastly, he predicted that conventional militaries were ill-prepared for this new foe since they were tooled to destroy near-peer militaries rather than defeat armed non-state actors such as insurgents.⁷⁹ In hindsight, van Creveld was correct: Today's militaries no longer fight other militaries and the overwhelming majority of casualties in warfare are civilians.⁸⁰

Almost a decade later, van Creveld observed that the post-Cold War era was epitomized by 'political splintering, decentralisation, even disintegration'. This led to 'vast' increases of power by non-state actors who

⁷⁸ Fukuyama, *The End of History and the Last Man*.

⁷⁹ Martin van Creveld, *The Transformation of War* (New York: Free Press, 1991).

⁸⁰ Roberts, "Lives and Statistics."

wielded ever-increasing influence in international relations. With political decentralisation, populations would feel allegiance to pluralities of political units, whether they were sovereign states, religious communities, multinational corporations, or ethnic groups. These political units might occasionally go to war against one another, and would likely take the form of enduring low intensity conflict, such as an insurgency. Moreover, these conflicts would be bloody, since armed non-state actors were unconstrained by or uninterested in international laws of war, which were constituted to govern interstate conflict. As van Creveld concluded, ‘this process is fast taking us back to the Middle Ages’.⁸¹

The evidence for neomedievalism that Bull sought but failed to find during the Cold War is plentiful in the post–Cold War era, alongside a resurgence of interest in the idea. Treatments of this concept have spanned both popular and scholarly fields. Popular writings on the idea tend to sensationalise it, foretelling nightmarish scenarios such as Robert Kaplan’s widely read article, ‘The Coming Anarchy’, which assumes civil war experiences in West Africa as the model for the future collapse of civilisation, leaving readers believing that they must invest in a castle for survival in the twenty-first century.⁸² Similarly, Alain Minc’s bestselling *Le Nouveau Moyen Age* portrays the future as disorder but disguises it as the Middle Ages. As he makes

⁸¹ Martin Van Creveld, “The New Middle Ages,” in “Naming a New Era,” *Foreign Policy* 119 (Summer 2000): 38–40.

⁸² Robert D. Kaplan, “The Coming Anarchy,” in *The Geopolitics Reader*, ed. Simon Dalby, Paul Routledge and Gerard Toal (London: Routledge, 1998), 188–196.

clear, 'the new Middle Ages, like the old ones, correspond to a mobile world without a centre, where nothing is definitively fixed'.⁸³ He goes on to describe a future less reminiscent of the Middle Ages and more evocative of the Hobbesian state of nature, which exists as 'war of all against all' where life is 'solitary, poor, nasty, brutish, and short'.⁸⁴ Such all-or-nothing dichotomous approaches to the Middle Ages versus modernity, disorder versus order, betray an unexamined prejudice toward the status quo of the Westphalian system. However, such hyperbolic and ahistorical readings of the past do not serve the present, and would be better termed as depictions of neobarbarism or a new Dark Age.

Fortunately, international relations theorists have been more circumspect in their approach to neomedievalism. Rather than viewing the Middle Ages as apocalyptic anarchy, many view them as functional chaos, which Alain Minc labels *durable disorder*.⁸⁵ Rather than rationalizing the paradox in conventional state-centric international relations theory, neomedievalism instead acknowledges the fundamental reorganisation and redistribution of power in the system from state to non-state actors, and seeks to reorient international relations theory away from state-centrism and toward an unstructured system of overlapping authorities and allegiances to understand

⁸³ Minc, *Le Nouveau Moyen Âge*, 67, 203. Quoted in: Friedrichs, "The Meaning of New Medievalism," 485.

⁸⁴ Thomas Hobbes, *Leviathan* (USA: Oxford University Press, 1998), Chap. xiii.

⁸⁵ The term 'durable disorder' was coined by Alain Minc and popularized in the English language by Philip Cerny: A. Minc, *Le Nouveau Moyen Âge* (Gallimard, 1993); P.G. Cerny, "Neomedievalism, Civil War and the New Security Dilemma: Globalisation as Durable Disorder," *Civil Wars* 1, no.1 (1998): 46.

global politics.⁸⁶ As Kobrin explains, the neomedieval metaphor is a way to ‘overcome the inertia imposed by our immersion in the present and think about other possible modes of political and economic organisation’.⁸⁷

The ‘other possible modes’ are what Wolfers and Bull once supposed decades ago but were reluctant to support—namely, the decline of the state system. However, by the 1990s many theorists were observing just this. Friedrichs ventured that the nation-state system ‘may be coming to an end’, leaving a vacuum for other entities to fill in ‘a less homogeneous configuration’. Moreover, this trend would be global and ‘the individual’s allegiances are increasingly directed towards groups other than the state. This creates a situation of overlapping authority and multiple loyalty’.⁸⁸ Mathews envisioned the sovereign state system replaced by a new medievalism of overlapping structures of authority within the same territory.⁸⁹ In general, neomedievalists have adopted Bull’s definitions and assumptions—detailed in the next chapter—but apply them to the post–Cold War world, where the primacy of the state has waned.

⁸⁶ For example see: R.B. Hall, and F.V. Kratochwil, “Medieval Tales: Neorealist “Science” and the Abuse of History,” *International Organization* 47, no. 3 (Summer 1993): 479-491; J.G. Ruggie, “Territoriality and Beyond: Problematizing Modernity in International Relations,” *International Organization* 47, no. 1 (Winter 1993): 139-174; J. Friedrichs, “The Meaning of New Medievalism.”; S.J. Kobrin, “Back to the Future: Neomedievalism and the Postmodern Digital World Economy.”; Gregory O’Hayon, “Big Men, Godfathers, and Zealots: Challenges to the State in the New Middle Ages” (PhD diss., University of Pittsburgh, 2003), 50; Andrew Gamble, “Regional Blocs, World Order and the New Medievalism,” in *European Union and New Regionalism: Regional Actors and Global Governance in a Post-Hegemonic Era*, ed. Mario Telo (Burlington, VT: Ashgate, 2007), 31; Cerny, “Neomedievalism, Civil War and the New Security Dilemma,” 40; Bruce Holsinger, *Neomedievalism, Neoconservatism, and the War on Terror* (Prickly Paradigm Press, 2007), 64; Cantir and Schrodt, “Neomedievalism in the Twenty-First Century,” 15.

⁸⁷ Kobrin, “Back to the Future,” 365.

⁸⁸ Friedrichs, “The Meaning of New Medievalism,” 482.

⁸⁹ Jessica T. Matthews, “Power Shift,” *Foreign Affairs* 76, no. 1 (Jan/Feb 1997): 50.

Many see the state system as torn between the opposed forces of globalisation and fragmentation, and either resist or give way to the idea of a new world order that appears anarchical to state-centric thinkers.⁹⁰ However, to neomedieval adherents this new world order maintains its own logic, and congruent with Bull's original formulation.⁹¹ Verdery explains that a neomedieval order 'parcels out' political authority among various rulers rather than concentrating it in a single sovereign, while Caporaso describes medieval authority as 'parcellized, personalized, and despatialized'.⁹² Anderson uses neomedievalism to conceive of shared territoriality in the European Union, and Hirst and Thompson observe that international politics is returning to a polycentricism that will soon rival the Middle Ages.⁹³ Both Gottlieb and Maier investigate conflicts between the nation and state and look for possible solutions in earlier times when sovereignty was 'divided' and not inherently territorial.⁹⁴ Lipschutz articulates a global civil society similar to pre-Westphalia that was trans-European and supranational, and Kobrin argues that we are witnessing the end of the modern era and the onset of

⁹⁰ Friedrichs, "The Meaning of New Medievalism," 485; Bertrand Badie, *La Fin des Territoires: Essai sur le Désordre International et sur L'Utilité Sociale du Respect* (Paris: Fayard, 1995), 256.

⁹¹ Alex Demirovic, "NGOs: Social Movements in Global Order?" (paper, American Sociological Association Conference, New York, 1996), 4; Gregory O'Hayon, "Big Men, Godfathers, and Zealots: Challenges to the State in the New Middle Ages," 35; Kobrin, "Back to the Future"; Nezar Alsayad And Ananya Roy, "Medieval Modernity: On Citizenship and Urbanism in a Global Era," *Space and Polity* 10, no. 1 (April 2006): 10.

⁹² Katherine Verdery, *What Was Socialism, and What Comes Next?* (Princeton: Princeton University Press, 1996), 208; J.A. Caporaso, "Changes in the Westphalian Order: Territory, Public Authority, and Sovereignty," *International Studies Review* 2, no. 2 (2000): 22.

⁹³ James Anderson, "The Shifting Stage of Politics: New Medieval and Postmodern Territorialities?," *Environment and planning D: Society and Space* 14, no.2 (1996): 133-154; Paul Hirst and Grahame Thompson, "Globalization and the Future of the Nation State," *Economy and Society* 24, no. 3 (1995): 408-442.

⁹⁴ Gidon Gottlieb, *Nation Against State: A New Approach to Ethnic Conflicts and the Decline of Sovereignty* (New York: Council on Foreign Relations Press, 1993); Charles S. Maier, "Democracy and Its Discontents," *Foreign Affairs* 73, no. 4 (1994): 48-64.

what he calls the ‘postmodern political economy’, which is neomedieval: ‘Time’s arrow may not be unidirectional. Change may not take the form of an evolutionary progression where each era is built upon the existing foundations or structures of its predecessor’.⁹⁵

Perhaps Cerny and Duffield offer the best description of the neomedieval environment, which consists of several interlocking and mutually buttressing elements regarding overlapping jurisdictions among states and other actors.⁹⁶ As the international community and economy grows more complex and intertwined, private and non-governmental sectors increasingly move into functions, such as the provision of force, that were the sole domain of states. Territorial boundaries, both within and across states, become more fluid. Borders are no longer lines on a map but organic spaces organised by non-state authorities, such as ethno-linguistic groupings and cultural affiliations, as seen in much of sub-Saharan Africa, the Kurds in the Middle East, and Pashtu in the Central Asia. The increasing inequality and isolation of various marginalised groups push them toward non-state polities⁹⁷ while identity politics, ethnicity and multiple and fragmented loyalties grow more important, as amply demonstrated by the ethnic conflicts in the Balkans, Iraq,

⁹⁵ Ronnie D. Lipschutz, “Reconstructing World Politics: The Emergence of Global Civil Society,” *Millennium: Journal of International Studies* 21, no. 3 (December 1992): 389; Kobrin, “Back to the Future,” 383.

⁹⁶ Cerny, Phillip G. “Neomedievalism, Civil War and the New Security Dilemma: Globalisation as Durable Disorder,” *Civil Wars* 1, no. 1 (1998): 36-64; Duffield, Mark. “Post-Modern Conflict: Warlords, Post-Adjustment States and Private Protection,” *Civil Wars* 1, no. 1 (1998): 65-102.

⁹⁷ For more on global inequality and why it matters, see: B. Milanovic, “Global Income Inequality: What it is and Why it Matters,” *World Economics* 7, no. 1 (2006): 131-153; Francisco H.G. Ferreira and Martin Ravallion, “Global Poverty and Inequality: A Review of the Evidence,” *World Bank Policy Research Working Paper* (Washington, DC: World Bank, 2008); Kate Pickett and Richard Wilkinson, *The Spirit Level: Why Greater Equality Makes Societies Stronger* (USA: Bloomsbury Press, 2009).

Sri Lanka, Indonesia, Sudan, the Democratic Republic of the Congo (DRC) and elsewhere. Property rights, legal statutes and conventions are contested, a particular problem in societies with strong minority groups and weak rule of law. The number of ungoverned spaces and lawless areas, such as the slums of Jamaica, the tribal territory on the Afghanistan and Pakistan border or the trans-Sahel region of Africa, increase. Lastly, the disparity between the developed and undeveloped world increases. As Paul Collier explains, there is ‘a group of countries at the bottom that are falling behind, and often falling apart’, which he calls the ‘bottom billion’ that ‘coexist with the twentieth century, but their reality is the fourteenth century: civil war, plague, ignorance’.⁹⁸ Worse, according to Mike Davis in his book *Planet of Slums*, the majority of this continued growth will occur in the poor urban areas of the developing world, the population of which he estimates will double to four billion over the next generation and critically stress already over-burdened government institutions.⁹⁹ Taken as a whole, these interlinked factors create a system of ‘durable disorder’ that contains rather than solves problems.¹⁰⁰

Nearly all writers explicitly state that neomedievalism is a metaphor—not a theory—even as it offers a way to comprehend the weakening of state power and the rise of non-state actors in global politics, which the conceptual

⁹⁸ Paul Collier, *The Bottom Billion: Why the Poorest Countries Are Failing and What Can be Done About It* (USA: Oxford University Press, 2008), 3.

⁹⁹ Mike Davis, *Planet of Slums*, (USA: Verso Book, 2006), 2.

¹⁰⁰ Cerny, “Neomedievalism, Civil War and the New Security Dilemma.” For Duffield on Cerny, see: Mark Duffield, “Post-Modern Conflict: Warlords, Post-Adjustment States and Private Protection,” *Civil Wars* 1, no.1 (1998): 70. See also: Phil Williams, *From the New Middle Ages to a New Dark Age: The Decline of the State and US Strategy*, (Carlisle, PA: Strategic Studies Institute, 2008), 6–9.

blindness of state-centrism cannot grasp.¹⁰¹ As Friedrichs explains, the neomedieval analogy is a ‘macro-analytical tool’ aiding in the reconceptualisation of world politics ‘after Westphalia’,¹⁰² contextualizing the ‘contradictory phenomena’ of rising violence in international politics alongside the decline of interstate warfare, the loss of the state’s monopoly of force to warlords and private military companies, and state failure.¹⁰³ No neomedievalist writers have pronounced the state dead. Cerny describes the ‘hollowing out’ of the state as its core national institutions are being challenged but not ‘filled in’ by multiple layers of non-state entities, creating governance gaps.¹⁰⁴ Morss, Berzins and Cullen all identify significant challenges to the state’s authority from supranational, international and subnational actors yet do not concede the state’s obsolescence.¹⁰⁵ O’Hayon asserts that neomedievalism ‘offers a non-zero sum conception of sovereignty’ that does not destroy the state but rather ‘unbundles’ its territoriality, authority and sovereignty.¹⁰⁶ Verdery and Duffield depict neomedievalism as the distribution of political authority among different actors that create zones of authority with overlapping boundaries

¹⁰¹ Kobrin, “Back to the Future,” 167; Ronald J. Deibert, “‘Exorcismus Theoriae’: Pragmatism, Metaphors, and the Return of the Medieval in IR Theory,” *European Journal of International Relations* 3, no. 2 (1997): 187; Cantir, and Schrod, “Neomedievalism in the Twenty-First Century,” 12.

¹⁰² Friedrichs, “The Meaning of New Medievalism,” 478.

¹⁰³ Cerny, “Neomedievalism, Civil War and the New Security Dilemma,” 47; Duffield, “Post-Modern Conflict,” 80; Kobrin, “Back to the Future,” 167; Van Creveld, “The New Middle Ages.”; Gamble, “Regional Blocs, World Order and the New Medievalism,” 30; Cantir and Schrod, “Neomedievalism in the Twenty-First Century,” 10.

¹⁰⁴ Cerny, “Neomedievalism, Civil War and the New Security Dilemma,” 49.

¹⁰⁵ Elliott R. Morss, “The New Global Players: How They Compete and Collaborate,” *World Development* 19, no. 1 (1991): 55-64; Chris Berzins and Patrick Cullen, “Terrorism and Neo-Medievalism,” *Civil Wars* 6, no. 2 (2003): 8-32.

¹⁰⁶ Gregory O’Hayon, “Big Men, Godfathers, and Zealots: Challenges to the State in the New Middle Ages,” 27; see also Cerny, “Neomedievalism, Civil War and the New Security Dilemma,” 42.

and, at the same time, no universal centre of competence.¹⁰⁷ At its core, the metaphor of neomedievalism challenges the notion that state hegemony is natural and immutable, thus going beyond neorealism and neoliberalism, which allow for inter-state institutions such as NGOs and international organisations but are grounded in state-centricity.¹⁰⁸ Proponents of neomedievalism claim that it offers a valuable alternative perspective to current conundrums in understanding international politics. But at what point does the analogy become a theory? Writers, if they address this question at all, do so only obliquely. Friedrichs warns that understanding fragmentation, integration and state predominance in the international system through the conceptual lens of neomedievalism might strike some as a theoretical insinuation.¹⁰⁹ Cantir and Schrodtt claim that neomedievalism can change international relations theory not through ‘a Kuhnian revolution but a Lakatosian statement that a new perspective can explain the same phenomena conventional international relations theories can, as well as more material that remains untouched by these approaches’.¹¹⁰ Neomedievalism holds promise as a theory for understanding a non-state-centric international system, but as Cantir and Schrodtt caution, ‘neomedievalism’s implicit assertion of superiority to state-centric approaches, however, still lacks a serious theoretical justification backed up by works in the philosophy of science’.¹¹¹

¹⁰⁷ Verdery, *What Was Socialism, and What Comes Next?*, 208; Duffield, “Post-Modern Conflict,” 69–70.

¹⁰⁸ Friedrichs, “The Meaning of New Medievalism,” 478.

¹⁰⁹ Friedrichs, “The Meaning of New Medievalism,” 479.

¹¹⁰ Cantir and Schrodtt, “Neomedievalism in the Twenty-First Century,” 13.

¹¹¹ *Ibid.*, 13.

More Than a Metaphor

However, in practice, neomedievalism is more than a metaphor, and perhaps is best understood as an ideal or pure type. An ideal type imagines a hypothetical concept in the abstract that acts as a scheme for understanding a complex phenomenon, as direct analysis of the proverbial real world is difficult because it is too complex, messy and ambiguous to derive a clear understanding of root causes, correlations and concepts. This is especially true in the social sciences, which do not enjoy the same degree of observable, empirical and measurable data as the natural sciences do to advance knowledge. The ideal type is a useful methodological middle ground between overly broad theoretical speculation and too-narrow historical example because it allows the investigator to isolate key variables yet clears the mists of excessive complexity.

Implicit in Plato's forms as well as Aristotle's constitutions, the ideal type was later honed as a social science technique by Max Weber at the beginning of the twentieth century. Initially Weber conceived of the ideal type as a means of replacing intuition when analysing the behaviours of societies with different values and worldviews (*Weltanschauungen*).¹¹² This requires creating a 'pure' idealization of the world that is fictional and 'cannot be found empirically anywhere in reality' and then comparing it against the real world.¹¹³ As such, the ideal type has no external validity because it does not correspond

¹¹² Weber offered his typology of authority as an example of this kind of ideal type. For more on this see: Stephen P. Turner, *The Cambridge Companion to Weber* (Cambridge: Cambridge University Press, 2000), introduction.; Richard Ned Lebow, *A Cultural Theory of International Relations* (New York: Cambridge University Press, 2008), 93, 95.

¹¹³ Max Weber, *The Methodology of the Social Sciences*, trans. and ed. Edward A. Shils and Henry A. Finch (Free Press, 1949), 88.

to any historical actuality, yet it renders information for analysis by functioning as a comparative benchmark. Clausewitz uses the methodology in *On War* by establishing an idealized version of war, which he calls absolute war, and compares it to war in practice, which he terms real war. From this he derives a good number of his conclusions about the nature of war.¹¹⁴ By tracking changes over time between ideal and real worlds, we can search for patterns in the skeins of history and induce where the real world might be heading.

Weber later reconceptualized the ideal type to accommodate empirical observations of the societies he studied, and this kind of ideal type serves as the main mode of inquiry for this thesis, buttressed by a case study. Rather than creating an ideal type for strictly comparative analysis against the real world, he reimagines it as a blueprint to understand a complex situation. Like the first ideal type, it is an abstract construct that does not exist in reality. However, it differs in that it emphasizes one or more key attributes of the phenomenon being studied to measure real-world events and organise them into a comprehensive theoretical whole. As he explains, ‘an ideal type is formed by the one-sided accentuation of one or more points of view’ according to which ‘concrete individual phenomena ... are arranged into a unified analytical construct’.¹¹⁵ Such an ideal type is not meant to serve as the basis of a comparative analysis but rather as a basic blueprint to understand a greater phenomenon. Its main advantage over a highly theoretical idea or a

¹¹⁴ Clausewitz, et al, *On War*, 134.

¹¹⁵ Weber, *The Methodology of the Social Sciences*, 90.

specific historical example is that it can examine complex situations without the limitations of either. Unlike a theory, an ideal type need not claim validity in terms of a reproduction of or correspondence with social reality; its validity need be ascertained only in terms of adequacy. Unlike a specific historical example, it can capably investigate supra-historical events that span time and place. This thesis hopes to find evidence for neomedievalism as an ideal type, with an eye toward a general theory.

Chapter 2

Evidence of Globalised Neomedievalism

The further back you look, the further forward you can see

—Winston Churchill

Life at the court of King Roger II of Sicily (1095–1154) might prove surprising to modern readers, who perhaps associate the Middle Ages with ignorance, violence and suffering—the proverbial Dark Ages. Life in medieval Sicily was comparatively safe, urbane and globalised. The architecture of the king’s Palazzo Reale in Palermo, like the society surrounding it, was infused with Norman, Arab and Byzantine influences. Upon entering its doors, a time traveller would hear French, Latin, Greek, Arab and Hebrew freely spoken on topics ranging from the international silk trade, the latest news from the distant Levant of the Second Crusade or the protection of minorities under Roger’s laws, which blended Christian Norman law, sharia and Justinian Roman code.

Courtiers swapping scuttlebutt at the portcullis might include the Arab geographer Muhammad al-Idrisi, the Greek historian Nilus Doxopatrius and the archdeacon of Catania, who translated Plato's *Meno* and the *Phaedo*, brought from Constantinople, into Latin. The king himself, though Norman, spoke fluent Arabic and was fond of Arabic culture. He employed Muslim scholars, poets and scientists, and used Arab troops and siege engines in his campaigns for southern Italy. His chief enemy was not a rival state but the pope, who hired mercenaries to raid Roger's lands in southern Italy. However, Pope Innocent II was not the only non-state actor with power in Roger's world; he also had to contend with societies such as the Templar knights, semi-autonomous cities such as Bari and families with great reach such as the Bavarian houses of Welf and Babenberg. This medieval world order, though perhaps more chaotic than our own, did not collapse into anarchy for want of a strong state-centric system.

In *The Anarchical Society*, Hedley Bull proposed five criteria to test for the possibility of neomedievalism in the modern era: the technological unification of the world, the regional integration of states, transnational organisations, the disintegration of states, and the restoration of private international violence.¹¹⁶ Writing in 1977, Bull examined each of these features, and though he found some substantiation of neomedievalism (e.g., the European Community), he concluded, as mentioned in the previous chapter, that the evidence lacked sufficient 'utility and viability' to refute the state

¹¹⁶ Bull, *The Anarchical Society*, 255–264.

system of his day.¹¹⁷ However, since the end of the Cold War scholars have reassessed these themes, albeit rarely through the lens of neomedievalism, and have found compelling proof for at least four of the five features of neomedievalism. Significantly, these conditions are causally linked and mutually reinforcing. Taken together, they have created a parallel international political economy that competes—and at times is at war with—the legitimate political economy of Bull’s society of states.

The Technological Unification of the World

For thirteenth-century Venetians, the world was ‘flat’ in that it was globally connected across boundaries and borders, both natural and artificial. The geography of their imagination saw a planet of endlessly changing trade routes, networks and opportunities that extended over land and sea. Venetian merchants such as Marco Polo travelled through the known world and beyond by ship or caravan in search of new markets and merchandise ranging from spices and gems to salt and slaves. The world also came to Venice as it was a hub of international trade and a clearinghouse of goods from Africa, the Middle East and Western Europe. Such cosmopolitan bustle moved Shakespeare to exclaim through Antonio in *The Merchant of Venice* that ‘the trade and profit of the city / Consisteth of all nations’.¹¹⁸

¹¹⁷ Ibid, 255.

¹¹⁸ William Shakespeare, *The Merchant of Venice*, ed. Blakemore Evans (Boston: Houghton Norton, 1974), 3.3.30-31.

Venetian trade was synonymous with globalisation as the city's traders forged partnerships and complex networks with distant lands that cut across ethnic and religious divisions. Arabs, Jews, Turks, Greeks and Mongols became trading partners even when they seemed to be political enemies. Cultures, customs, and language intermingled that endure to this day. For example, the English word *arsenal* comes from the Italian *arzenale*, which can mean a place to store weapons or a dockyard and was the term Venetians used to describe a large wharf in their city renowned as a centre of shipbuilding. *Arzenale* in turn is derived from the Arabic *dar as-sina'ah*, which literally means 'house of manufacture' or 'workshop'. In 1886, a London football club was named for the Royal Arsenal, Woolwich, where the original players worked. Medieval Venice was globalisation incarnate.¹¹⁹

Eight hundred years later the world is 'flat' once more, levelled not by ship and caravan but by jet plane and telecommunication. The contemporary technological unification of the world and subsequent globalisation is one of the most widely studied phenomena of the post-Cold War era, in both scholarly and popular literatures, and has been called the 'the leitmotif of our age'.¹²⁰ The sheer scale and scope of worldwide interconnectedness through technology has touched every sphere of life: political, economic, social, cultural, intellectual. Globalisation is a broad concept that defies easy

¹¹⁹ For an enjoyable account of this period, see: Laurence Bergreen, *Marco Polo: From Venice to Xanadu* (New York: Vintage Books, 2008).

¹²⁰ David Held and Anthony McGrew, eds., *The Global Transformations Reader: An Introduction to the Globalization Debate*, 2nd ed. (Cambridge: Polity Press, 2003), 1.

definition, and descriptions of the phenomenon range widely from the narrow ‘integration of the world-economy’ to the expansive ‘growth of supra-territorial relations between people’.¹²¹ In general, globalisation refers to the growing interconnectedness and interdependence among individuals, families, communities, states and regions around the world, enabled through technology and linking their fates together in profound ways. This has transformed the geography of social relations, liberating people from their ties to physical territory and creating networks that are relatively distanceless and borderless. Unification in this context does not infer a single utopian international society, since fragmentation and unevenness also characterise globalisation.¹²² Rather, it simply refers to the crescendo of interconnectedness due to technological revolution. On a planet knit together by myriad worldwide transportation possibilities and technological communications taking place almost instantaneously, national borders—and those who control them—matter less.

Globalisation is not a new phenomenon; as sceptics of contemporary globalisation have argued, in some ways the world was more connected in the period between 1870 and 1914 than it is now. Paul Hirst and Grahame Thompson contend that current cross-border activities have not upended the state. First, they claim that advocates of globalisation do not present sufficient evidence that supranational actors are consistently decisive over states in the

¹²¹ Respectively: Robert Gilpin and Jean M. Gilpin, *Global Political Economy* (Princeton: Princeton University Press, 2001), 364; Jan Aart Scholte, *Globalization: A Critical Introduction*, 1st ed. (Hampshire, UK: Palgrave Macmillan, 2000), 46.

¹²² On fragmentation, see for example: Bull, *The Anarchical Society*, 273; Friedrichs, “The Meaning of New Medievalism,” 480; John Arquilla and David Ronfeldt, *Networks and Netwars: The Future of Terror, Crime, and Militancy* (Santa Monica, CA: Rand Corporation, 2001).

international system. International organisations that have the power to shape markets, such as the Association of Southeast Asian Nations (ASEAN), are comprised of states, and the majority of multinational corporations operate from specific country bases, leaving the state in control of economic affairs through regulation, taxes and welfare spending. Lastly, the internationalisation of trade, capital flows and the monetary system is hardly unique to the present day. To demonstrate this, they compare the present world economy to that of the *belle époque*. Using various macroeconomic measures, they show that the integration of a century ago equals present levels. They acknowledge the vast historical variations between the two time periods, but aver that their purpose is simply to ‘register a certain scepticism over whether we have entered a radically new phase in the internationalisation of economic activity’.¹²³ They conclude that internationalism does not create a supra-territorial ‘global order’, and that the most important relationships in the international system are still among states. However, a weakness of their argument lies in treating globalisation as a purely economic phenomenon, and then drawing broad political, social and cultural inferences from an essentially economic analysis.

Meanwhile, hyperglobalists claim that today’s globalisation is historically unique and will subsume the state by undermining its ability to

¹²³ Paul Hirst and Grahame Thompson, *Globalization in Question: The International Economy and the Possibilities of Governance*, 1st ed. (Cambridge: Polity Press, 1999), 49. For additional sceptical views on globalisation see: Robert Gilpin, *The Challenge of Global Capitalism: The World Economy in the 21st Century* (Princeton: Princeton University Press, 2002); Colin Hay, “Contemporary Capitalism, Globalization, Regionalization and the Persistence of National Variation,” *Review of International Studies* 26, no. 4 (2001): 509-531; Ankie M.M. Hoogvelt, *Globalization and the Postcolonial World: The New Political Economy of Development*, 2nd ed. (Baltimore, MD: Johns Hopkins University Press, 2001).

control its economy, society and ultimately destiny. Common slogans such as ‘think globally, act locally’ and the awkward term ‘glocalisation’ encapsulate Roland Robertson’s wonderful neo-Parsonian description of globalisation as a ‘two-fold process involving the universalisation of particularism and the particularisation of universalism’.¹²⁴ Anthony Giddens classically describes globalisation as the stretching of social connections between the local and the distant on an intense worldwide scale.¹²⁵ These processes side-step state boundaries and the clutches of sovereignty, a condition which has garnered many arguments and labels, such as ‘supra-territoriality’, ‘borderless world’, ‘retreat of the state’, ‘epochal transformation’, ‘epochal shift’, ‘paradigm shift’, ‘the end of the world as we know it’, and the constant reframing of the ‘new’ (e.g., ‘the new freedom of capital’, ‘new speed, new polarisation’, ‘new extraterritoriality’, ‘new expropriation’, ‘new global elite’, etc.).¹²⁶ Directly challenging Hirst and Thompson’s thesis, David Held, Anthony McGrew, David Goldblatt, and Jonathan Perraton claim that the distinctions of territorial power are eroding and being replaced with ‘a new geography of

¹²⁴ Roland Robertson, *Globalization: Social Theory and Global Culture* (London: Sage Publications Ltd, 1992), 102.

¹²⁵ Anthony Giddens, *Modernity and Self-Identity: Self and Society in the Late Modern Age* (Stanford: Stanford University Press, 1991), 64.

¹²⁶ Giddens, *The Consequences of Modernity*, 64; Kenichi Ohmae, *The Borderless World: Power and Strategy in the Interlinked Economy* (New York: HarperCollins, 1994).; Walter B. Wriston, *The Twilight of Sovereignty: How the Information Revolution is Transforming Our World* (New York: Scribner Book Company, 1992); Guéhenno, *The End of the Nation-State*, 1995.; Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy (Cambridge Studies in International Relations)* (Cambridge University Press, 1996); James N. Rosenau, *Along the Domestic-Foreign Frontier: Exploring Governance in a Turbulent World* (Cambridge: Cambridge University Press, 1997); R. Burbach and W. Robinson, “The Fin De Siecle Debate: Globalization as Epochal Shift,” *Science & Society* 63, no. 1 (1999): 10-39; Jan Aart Scholte, “Globalisation: Prospects for a Paradigm Shift,” in *Politics and Globalisation: Knowledge, Ethics and Agency*, ed. Martin Shaw. (London: Routledge, 1999), 9–22; Malcolm Waters, *Globalization*, 1st ed. (London: Routledge, 1996); and Zygmunt Bauman, *Globalization: The Human Consequences* (New York: Columbia University Press, 2000) on that which is ‘new’.

power and privilege which transcends political borders and regions'.¹²⁷ Their book, *Global Transformations: Politics, Economics, and Culture*, is one of the most cited works on the topic and considered seminal by many.¹²⁸ Bull himself concedes, after he wrote *The Anarchical Society*, that although globalisation is responsible for many new ills in the contemporary world, it has also fostered 'the growth of a cosmopolitan moral awareness'.¹²⁹

To date, of course, states have not disappeared, but nor can globalisation be facily dismissed as 'globaloney'.¹³⁰ Cheap and accessible modern technology has transformed global politics by radically increasing the velocity, breadth and depth of information sharing and interaction among humans, unifying the world in fundamental ways at the expense of states' absolute power. Even most sceptics acknowledge that we exist in something more than an international economy because the economic fortunes of states, non-states and regions are so interlinked. Production, trade and finance have become homogenised and consumerism has fostered an integrated world economy, which until recently has boomed. According to the World Bank, the gross domestic product (GDP) of the world multiplied by an incredible factor of forty-five over the past four decades, from \$1.35 trillion in 1960 to \$61.1

¹²⁷ David Held, et al., *Global Transformations: Politics, Economics and Culture* (Cambridge: Polity Press, 1999), 429.

¹²⁸ Michael Lang, "Globalization and Its History*," *The Journal of Modern History* 78, no. 4 (2006): 904.

¹²⁹ Hedley Bull, *Justice in International Relations: The 1983 Hagey Lectures* (Waterloo, ON: University of Waterloo, 1984), 12.

¹³⁰ Michael Veseth, *Globaloney: Unraveling the Myths of Globalization* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2006).

trillion in 2008. From 2000 to 2008 alone, world GDP nearly doubled.¹³¹ When there is an economic recession in one country, it can affect the world, as seen with the East Asian recession of 1997, collapse of the Argentinean economy in 2002, and the United States sub-prime mortgage crisis in 2007. Nearly everywhere jobs, production, savings and investments are connected.

The financial interdependence has bred a durable disorder, internally chaotic but stable overall, within the international system. The global economic integration of commerce, finance and production has linked the economic destinies of state and non-state actors alike. This, in turn, incentivises all actors to work collectively to maintain a stable status quo and create conditions of global constancy that ensure continuing profitable markets. Walter Russell Mead calls this 'sticky power,' which has the potential, he claims, to 'help stabilize Iraq, bring rule of law to Russia, and prevent armed conflict between the United States and China'.¹³² Whether a country can wield 'sticky power' on a grand strategic level, as Mead asserts, is questionable.¹³³ Regardless, it is a useful concept that illustrates one aspect of neomedievalism: Sticky power promotes a stable yet laissez-faire order, by which countries have less incentive to challenge each other because their economies are intertwined.

A good example of sticky power is the relationship between the United States and China. As of May 2010, China owned \$867.7 billion or nearly a

¹³¹ GDP in current United States dollars, and not adjusted for inflation. See: International Bank for Reconstruction and Development, *2010 World Development Indicators* (Washington, DC: The World Bank, 2010).

¹³² Walter Russell Mead, "America's Sticky Power," *Foreign Policy*, no. 141 (March/April 2004): 46-53.

¹³³ See for example: Alexander L. Vuving, "How Soft Power Works" (paper presented at the annual meeting of the American Political Science Association, Toronto, Ontario, 2009), p. 7.

quarter of United States sovereign debt, and this significant investment discourages each power from bellicose confrontation with the other.¹³⁴ However, this durable disorder is uneasy, as some United States policymakers fear that China might try to leverage its large holdings of United States debt against United States policies it opposes. Chinese government officials are reported to have suggested that China could diversify its investments of foreign exchange reserves away from dollar-denominated assets to those that offer higher rates of returns. Or, China could dump, or threaten to dump, a large share of its holdings to prevent the United States from implementing trade sanctions against China's currency policy or challenging China on its sub-standard human rights record. However, despite occasional sabre rattling by both countries, it seems unlikely that the United States and China will seriously challenge each other, at least in the near future, as their economies are too dependent on each other. As in the Middle Ages, durable disorder prevails because actors are incentivised to maintain stability.

Beyond Markets

Globalisation extends past economics and into other spheres of human activity consistent with neomedievalism. Modern telecommunications and transportation technologies have transformed social organisation by linking distant communities together in ways that were beyond comprehension in Bull's day. Now far-flung ethnic groups, diaspora communities and Benedict

¹³⁴ United States Financial Management Service, United States Department of the Treasury, accessed August 22, 2010, <http://www.fms.treas.gov/index.html>.

Anderson's imagined communities can unite in ways that were unthinkable a generation ago.¹³⁵ Since 1998, mobile telephone subscriptions have risen exponentially, from 5 per cent to 68 per cent globally, and internet use has grown from 400 million users in 2000 to 1.8 billion by 2009. This expansion is not limited to the developed world, either: The digital divide between the developed and developing world is closing. In the developing world, mobile telephone subscriptions have increased 45 per cent and internet use 17 per cent over the past ten years.¹³⁶ All trends seem to indicate that these numbers will continue to increase.

The technological unification of distant communities has resulted in the deterritorialisation of politics by facilitating non-territorial polities based on identity, religion, ethnicity and culture that compete with the state for the loyalty of individuals, creating mixed allegiances. An extreme example of this is the case of the DC Five, in which five young American Muslims living in the suburbs of Washington, DC became radicalized by local Islamic militant groups and Muslim critiques of the war in Afghanistan on the internet. Over time, their primary loyalty shifted from their country to their religious identity as Muslims, and in June 2009 they left Washington and flew to Pakistan to enter an al-Qa'ida training camp to wage jihad against United States forces in

¹³⁵ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, New Ed. (London: Verso Books, 2006).

¹³⁶ "ICT Data and Statistics," International Telecommunication Union, accessed August 20, 2010, <http://www.itu.int/ITU-D/ict/statistics/index.html>.

Afghanistan. They were captured by Pakistani anti-terrorism units and sentenced to ten years in prison.

Another example of shifting allegiances is the case of Faisal Shahzad—the Times Square bomber—a Pakistani-American who attempted to detonate a car bomb in New York City in May 2010. Born in Kashmir, he attended a Pashtu Muslim school in Saudi Arabia and then moved to the United States to study business and work as a financial analyst. Before his attempted bombing, there was no indication of violence or radical tendencies. He was, however, ‘inspired’—his word—by the radical sheik Anwar al-Awlaki, who lives in Yemen and preaches on the internet for faithful Muslims around the world to wage jihad against the United States in Afghanistan.¹³⁷ Through the internet, al-Awlaki connected Shahzad to the Pakistani Taliban’s Baitullah Mehsud, who arranged for Shahzad’s terrorist training at a camp in Pakistan. In his suicide video he praises Mehsud and Abu Musab al-Zarqawi, founder of al-Qa’ida in Iraq (also known as Al-Qa’ida in Mesopotamia), and says: ‘The attack on the United States will be a revenge for all the mujahedeen and oppressed Muslims.... Eight years have passed since the Afghanistan war and you shall see how the Muslim war has just begun and how Islam will spread across the world’.¹³⁸ Modern technology has created a unified world in which ‘politics everywhere, it would seem, are related to politics everywhere else’.¹³⁹

¹³⁷ Damien McElroy, “Times Square Bomb Suspect Had Links to Terror Preacher,” *London Telegraph*, May 7, 2010.

¹³⁸ Ryan J. Donmoyer, “83 Per cent of Companies Had Tax-Haven Units, GAO Says,” *Bloomberg News*, January 16, 2010, accessed October 10, 2010,

Technological transcendence of physical borders allows politics to bypass the state and distinctions between domestic and international affairs lose their validity as political affairs become globalised. This creates a second and concomitant transformation within the international system, namely the denationalisation of authority. Since human community is no longer fully constrained by physical proximity, the state and its role in physically mediating relationships between people becomes less important and powerful in global politics. Instead, societies are increasingly organised on a trans-national, trans-regional or trans-continental basis.¹⁴⁰ Technology, in short, has realized Marshall McLuhan's 'global village',¹⁴¹ producing an international neomedieval environment where physical boundaries and the notion of a supreme authority in a given territory are increasingly irrelevant.

The Regional Integration of States

In the late fourteenth century Europe had a problem: it had two popes. In 1378 a papal schism over politics rather than theology split the Catholic Church as two men simultaneously claimed to be the true pope, one seated in Rome and the other in Avignon, plunging Europe into strife as kings, princes, priests, abbots and individuals were forced to choose sides in what became

<http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aK0aqjwsiSCA>; "Faisal Shahzad Made Suicide Video - Al Arabiya Airs Failed Times Square Bomber Tape," *Al-Arabiya*, July 14, 2010.

¹³⁹ Richard W. Mansbach, et al., *The Web of World Politics: Nonstate Actors in the Global System* (Englewood Cliffs, NJ: Prentice Hall, 1976), p. 22.

¹⁴⁰ Bertrand Badie and Marie-Claire Smouts, *Le Retournement Du Monde* (Paris: Presses de la Fondation Nationale des Sciences Politiques, 1992).

¹⁴¹ Marshall McLuhan, *The Gutenberg Galaxy: The Making of Typographic Man* (Toronto: University of Toronto Press, 1962).

known as the Great Schism.¹⁴² After several decades, a false start at reconciliation at Pisa, and a third pope later, resolution was finally achieved at the Councils of Constance from 1414 to 1418, which restored the single papacy to Rome in addition to other important Church matters.¹⁴³ It also marked two other significant events in the history of states and sovereignty. First, it was the first ecumenical council organised along national rather than religious lines and presided over by an emperor instead of a pope. According to Martin Wight, this was the genesis moment of the modern state system: ‘The modern secular sovereign state-system arose from the ruins of the medieval international papal monarch. The dividing line between the two is clearly marked by the Council of Constance’.¹⁴⁴ Second, the famous *Haec sancta* decree stripped the pope of his supreme authority and vested it into a council or assembly of members from different states and church organisations. Moreover, this representative assembly had power over any single authority, even the pope.¹⁴⁵

Like the Council of Constance, the regional and worldwide integration of states pool their sovereignty into international organisations, such as the UN, that can claim authority over individual member states for the greater

¹⁴²This is also known as the Western Schism. It should not be confused with the Great Schism, or East-West Schism, of 1054 between the Roman Catholic Church and the Greek Orthodox Church.

¹⁴³For example, the condemnation of John Wyclif and execution of Jan Hus, the rights of pagans, rulings on just war in response to a conflict between the Kingdom of Poland and the Order of the Teutonic Knights and the creation of the *Ars moriendi* (The Art of Dying), a Church treatise on how to die well.

¹⁴⁴Wight, *Systems of States*, 131.

¹⁴⁵This was known as conciliarism, and the conciliar movement sought to reform the Church in the fourteenth, fifteenth and sixteenth centuries. For more, see: Brian Tierney, ‘Divided Sovereignty At Constance: A Problem of Medieval and Early Modern Political Theory,’ *Annuaire Historiae Conciliorum* 7 (1975): 238-256.

good. The idea would be anathema to traditional Westphalian idealists but modern times call for pre-modern measures, especially to meet the challenges of globalisation. As the benefits of interconnectedness grow, so do the difficulties, and there has been recognition that transnational problems such as climate change and terrorism require global solutions. This has led to an expansion in both size and scope of international organisations, also known as intergovernmental organisations.

A century ago there were a dozen or so international organisations, which were European and existed mostly to coordinate international economic transactions and technical matters, such as railroad and telegraph standards.¹⁴⁶ Today there are over 355 international organisations ranging from regional organisations, such as the African Union, European Union and Organisation of American States, to issue-oriented international organisations, such as the World Intellectual Property Organisation, World Trade Organisation and International Criminal Police Organisation (INTERPOL).¹⁴⁷ The European Union, Organisation of American States, and International Monetary Fund (IMF) are primarily comprised of states, maintain formal procedures, and generally focus on a region or single policy issue. Meanwhile, UN work has become more important across many policy issues.

¹⁴⁶ The earliest formal international organisation that existed to help arbitrate security issues was the Convention for the Pacific Settlement of International Disputes established by The Hague conferences of 1899 and 1907. However the actual power of this international organisation was limited when compared to international organisations such as the UN today.

¹⁴⁷ "Government Information," NorthWestern University Library, accessed August 31, 2010, <http://www.library.northwestern.edu/govinfo/resource/internat/igo.html>.

In theory, international organisations allow states to pool their sovereignty for their collective interests and co-ordinate their efforts in dealing with transnational issues. This is not an affront to the state system, according to Bull, because the integration of several smaller states into a larger one does not countermand the primacy of sovereignty. Nor would Bull view a hybrid form of interstate governance, such as the UN, as a threat to sovereignty because states nominally control it. However, the power of international organisations has grown significantly since Bull's day at the expense of states and the salience of the state system.

The core concern surrounding today's international organisations is the axiomatic question: Is the sum greater than the whole of the parts? Have international organisations transcended the hive-mind of their constituent states and become unique political actors in their own right? If so, they can challenge states' authority and compete for the allegiance of their citizens, which would indicate neomedievalism. Intergovernmentalists, like Bull, answer this question with a clear *no*. International organisations are firmly controlled by states, which would not act against their own interests by empowering an international organisation to behave as a sovereign. From their realist's perspective, states create these institutions to preserve and potentially expand their interests as well as to facilitate negotiations; ultimately, integration is little more than a series of bargains among states. Owing to this, Stanley Hoffman, an early proponent of the intergovernmentalist position, observes that 'any

international system would be likely to produce diversity rather than synthesis among the units' because states would not willingly relinquish power by submerging their sovereignty into a collective.¹⁴⁸

Supranationalists, however, consider the possibility that some international organisations may develop into political actors in their own right, whether states permit it or not. The creation of common institutions with independent decision making authority that infringes on state sovereignty, combined with supranational laws, allows some international organisations to impose constraints on member states and act with a degree of autonomy not originally envisaged. Supranationalists view the commission within the European Union as the primary driver of the integration process rather than its member states. A prominent neomedieval theme within European studies is the shift of loyalties from the member states toward a new centre of authority and decision-making within the European Union, producing an autonomous institution. Ernst Haas explains political integration as 'a process where actors shift their loyalties and expectations toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states. The end result of a process of political integration is a new political community, superimposed over the pre-existing ones'.¹⁴⁹ International organisations thus

¹⁴⁸ Ben Rosamond, *Theories of European Integration* (Hampshire, UK: Palgrave, 2000), 76; Stanley Hoffmann, "Obstinate Or Obsolete? The Fate of the Nation-State and the Case of Western Europe," *Daedalus* 95, no. 3 (1966): 862-915.

¹⁴⁹ Leon N. Lindberg, *The Political Dynamics of European Economic Integration* (Stanford: Stanford University Press, 1963), 4.

erode the state system by challenging the state's monopoly on authority and allegiance, and the trend of them doing so is on the rise.

Many international organisations today aspire for power within the international system and flex their authority by establishing supranational legal regimes that directly intervene in the domestic affairs of states. This creates mixed authorities in the system, pitting state law against international law. According to one theorist, the European Union 'is a highly developed system for mutual interference in each other's domestic affairs, right down to beer and sausages'.¹⁵⁰ Similarly, the governing principles of the Organisation for Security and Cooperation in Europe (OSCE), comprised of fifty-six member states, covers a swath of domestic political concerns including democratic procedures, treatment of minorities, gender issues, and freedom of the press. According to its Charter for European Security, the OSCE affirms its commitment to 'eliminate all forms of discrimination against women', the 'obligation to conduct free and fair elections', and a commitment to 'independent media'.¹⁵¹ The charter reads less like a security agenda and more like a domestic political program for states, overseen by an international organisation.

Some international organisations even uphold a doctrine of intrusive verification, allowing them to invasively investigate selected domestic political affairs within a state on pain of international sanction. At present, this is most

¹⁵⁰ Robert Cooper, *The Post Modern State and the World Order* (UK: Demos, 2000), 20.

¹⁵¹ OSCE, *Istanbul Summit 1999* (Istanbul: Organization for Security and Co-operation in Europe, 1999), 6-7.

readily seen in the realm of arms control. The International Atomic Energy Agency has conducted compulsory inspections of weapons sites in Iraq, Iran and North Korea to ensure compliance with the nuclear Non-Proliferation Treaty. In 2005 the organisation won the Nobel peace prize for its work, which defenders of sovereignty might find unsettling. However, intrusive verification is not limited to countries in the so-called Axis of Evil.¹⁵² The Treaty on Conventional Forces in Europe, which the OSCE helps manage, mandates that parties to the treaty must declare the location of their heavy weapons, which are also limited by the treaty, and allow inspections.¹⁵³ Nor is intrusive verification limited to the security sphere. The IMF and Organisation for Economic Cooperation and Development (OECD) maintain invasive systems of economic surveillance and compliance as part of loan conditionality. In the social and political arena, international courts claim jurisdictions which compete with states in their own territories to try individuals for committing crimes against international—that is, supranational—law. The Strasbourg Court of Human Rights investigates crimes committed within states and then renders judgment, potentially against state officials, in accordance with the court's interpretation of international law. The International Criminal Court (ICC) is an even more powerful example.

¹⁵² George W. Bush, "State of the Union Address, 29 January 2002," Quoted in Ben Barber, "US Weighs N. Korea Speech," *Washington Times* 22 (2002).

¹⁵³ OSCE, *Istanbul Summit 1999*, 91.

A Sum Greater Than Its Parts

Established in 2002, the ICC is a permanent tribunal at The Hague that prosecutes individuals for genocide, crimes against humanity, war crimes and the crime of aggression (although at present it cannot exercise jurisdiction over the crime of aggression). Its mandate is to buttress not states but another international organisation, the UN, and to ‘guarantee lasting respect for and the enforcement of international justice’.¹⁵⁴ The criminal code it enforces is sourced in the 1998 treaty known as the Rome Statute of the International Criminal Court, which establishes the court and spells out the law on genocide, crimes against humanity, war crimes, and crimes of aggression. So far, 111 countries are party to the statute, though three of the five veto powers on the Security Council—China, Russia and the United States—have not signed up. They are concerned that the court’s authority would impede their own, restricting their latitude in areas ranging from warfare to domestic law enforcement.

The ICC fosters overlapping authorities and allegiances by displacing national law and placing international legal obligations directly on individuals rather than their governments. It does this in several ways. First, in a vivid departure from the Westphalian order, the ICC claims universal jurisdiction at the expense of member states’ domestic jurisdictions. Universal jurisdiction elevates the ICC to a political actor on the world stage by replacing

¹⁵⁴ U.N. General Assembly, UN Doc. A/CONF.183/9, “Preamble, Rome Statute of the International Criminal Court,” July 17, 1998, <http://untreaty.un.org/cod/icc/statute/rome.htm>.

government with governance and defining criminal conduct for all persons, including senior officials of states and military personnel.¹⁵⁵ In some cases the court may investigate and try citizens of states that have not signed or ratified the Rome Statute.¹⁵⁶ The ICC even issues arrest warrants for heads of state such as Sudan's president Omar Al-Bashir or Libya's president Moammar Gadhafi for 'crimes against humanity'.

Second, the court attempts to supplant justice for foreign policy. Many who desire an independent judiciary within global politics often presume that the foreign policy of states impedes international justice, as demonstrated by a senior European Union commissioner, Emma Bonino, during the Rome treaty negotiations when she asserted that 'foreign policy may well be the last vanity of nations'.¹⁵⁷ This assumes that judicial activities function in isolation from other international processes, which is wrong as demonstrated by Scotland's decision to release Abdelbaset Ali al-Megrahi, the 'Lockerbie bomber', for reasons of justice and compassion. According to Kenny MacAskill, Scottish cabinet secretary for justice, he was 'bound by Scottish values to release him' and allow him to die in his home country.¹⁵⁸

¹⁵⁵ For more on how governance has replaced government, see: R.A.W. Rhodes, "The New Governance: Governing Without Government," *Political Studies* 44, no. 4 (1996): 652-667.

¹⁵⁶ Rome Statute art. 13. For more information on ICC jurisdiction over citizens of non-parties, see: Jennifer Elsea, *International Criminal Court: Overview and Selected Legal Issues* (Washington, DC: Congressional Research Service, 2002), 25.

¹⁵⁷ Patricia McNerney, "International Criminal Court: Issues for Consideration by the United States Senate," *Law and Contemporary Problems* 64, no. 1 (2001), 184.

¹⁵⁸ Megrahi was imprisoned for his role in the bombing of Pam Am Flight 103, which claimed 270 lives in 1988, but was released back to his native Libya in 2009 after serving just eight-and-a-half years of his life sentence. Megrahi was freed owing to his terminal cancer. Quotation from Tom Palmer, "'Bad Decision' to Release Bomber," *Yorkshire Post*, 2010. Section 3 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 gives the Scottish ministers the power to release prisoners on license on compassionate grounds.

Despite MacAskill's noble intentions, international politics soon caught up with Scottish justice. Megrahi received a hero's welcome in Tripoli by Gaddafi himself, who boasted a 'big victory' causing international uproar. Victim's groups were outraged and the Scottish parliament was recalled from its summer break to question the government's decision. The United Kingdom's prime minister, David Cameron, expressed regret over the decision and United States' president Obama bluntly exclaimed, 'I think all of us here in the United States were surprised, disappointed and angry about the release'.¹⁵⁹ Later MacAskill recalled his decision was a 'matter of great regret', demonstrating that foreign policy can never be disassociated from judicial action that crosses national borders.¹⁶⁰

Third, the court circumvents member-state oversight through weak checks and balances, allowing the ICC to function more autonomously. The Rome treaty gives broad authority to the ICC's prosecutors yet does not make them accountable to states. Nor is the court directly answerable to the UN because it is legally and functionally independent. Unlike with other courts of international law, such as the International Court of Justice, the UN does not retain the sole power to refer a case to the ICC and the Rome treaty waters down the veto power of the Security Council. Under the treaty, any case proposed by the prosecutor and approved by the judges will proceed unless

¹⁵⁹ Robert Winnett, "David Cameron Orders Release of Secret Lockerbie Bomber Documents," *The Telegraph*, July 20, 2010.

¹⁶⁰ Scottish Parliament, "Official Report: Abdelbaset Ali Mohmed Al-Megrahi (Decision)," <http://www.scottish.parliament.uk/business/officialreports/meetingsparliament/or-09/sor0824-02.htm> (accessed 3 September, 2010).

there is full support by the permanent five to stop a case. This departs from past practices, such as the ad hoc tribunals for Rwanda and the Former Republic of Yugoslavia, which required a Security Council vote for each case to move forward. Without Security Council oversight, it is difficult for states to restrain overzealous and unaccountable prosecutors who seek to politicize justice and exploit the court's unprecedented authority.

Under the treaty, the ICC prosecutor may only be removed in the event of serious misconduct or breach of duty, but in reality a roving prosecutor is not easily restrained since he or she is limited solely by a pre-trial chamber that determines whether the prosecutor may go forward and issues orders and warrants. Other ambiguities abound within the court's constitution: definitions and elements of crimes, nebulous criterion for judges, jurisdiction or the mechanism by which a trial commences, rules of evidence and procedure and state cooperation obligations versus sovereign privilege. The lack of rigor and oversight of the court renders it an actor in rather than a servant of international relations.

Fourth, the overlapping authorities of the ICC with states within a given territoriality produce mixed allegiances among individuals, who face the dilemma of whether their duty is to national or international law. Nowhere is this predicament more apparent than soldiers in wartime, who are expected to obey lawful orders in combat; those who fail to do so face court martial to

maintain military effectiveness and discipline.¹⁶¹ It is unclear how soldiers might act in combat if they believed that, by following the orders of their superior officer, they could be arrested, tried and incarcerated at The Hague. Such confusion over the duelling mandates of state versus ICC authority is deadly in war, which is why President Bush instructed soldiers deploying to Iraq that ‘every person who serves under the American flag will answer to his or her own superiors and to military law, not to the rulings of an unaccountable international criminal court’.¹⁶² Mixed authorities have begotten mixed allegiances, a distinctly neomedieval trait.

The Theocracy of Human Rights

The supranational role of the ICC is part of a wider post–Cold War trend of transferring the locus of sovereignty from the state to the individual, legitimised by human rights, which can be understood as a fundamental force for neomedievalism. Analogous to Church doctrine, human rights are principally concerned with the physical and moral well being of people; also, they are distinctly European in origin, making their vision of justice ethnocentric to some.¹⁶³ Nonetheless, human rights are an increasingly important political instrument in international relations, even sanctioning

¹⁶¹ Although, the ICC’s antecedents, the Nuremberg Charter and the statutes establishing the International Criminal Tribunals for the former Yugoslavia and for Rwanda, all contained statements that obedience to orders was not a defence. This underdeveloped summarisation of customary law was seen as too unsophisticated for a permanent court, and, at United States insistence, this provision was refined during ICC negotiations. See Charles Garraway, “Superior Orders and the International Criminal Court: Justice Delivered Or Justice Denied,” *IRRC*, 836 (1999): 785-794.

¹⁶² George W. Bush, “President Salutes Troops of 10th Mountain Division,” July 19, 2002, <http://www.whitehouse.gov/news/releases/2002/07/20020719.html>.

¹⁶³ For example see: Mohammed Ayoub, “Humanitarian Intervention and State Sovereignty,” *The International Journal of Human Rights* 6, no. 1 (2002): 81-102.

military interventions in Kosovo, Somalia, Rwanda, Timor Leste and other countries since the early 1990s. The concept of human rights allows international organisations, such as the UN, to act as self-proclaimed guardians of individuals' human rights versus a state's right to rule—again, creating an authority that overlaps and competes with state sovereignty.

The intellectual archaeology of human rights is complex, Christian, and European. The idea that human rights represent universal moral laws that override state laws stems from the Western Christian doctrine of natural law, as espoused by Augustine, Thomas Aquinas, Hugo Grotius and others.¹⁶⁴ In the Middle Ages, when popes and princes vied for the fealty of individuals in the same territory, the duality between natural and civil law created overlapping authorities and allegiances. Emperors, kings and princes exercised authority in ways analogous to modern states. They passed and enforced laws, collected taxes, adjudicated disagreements between citizens and entered into diplomatic relations with other kingdoms and fealties. While these secular leaders looked after the physical welfare of their subjects, the Church ministered to those same subjects' spiritual well being and claimed universal jurisdiction in the name of God. The pope had many ways to extend the Church's political authority, however. The Church could issue directives to the faithful that

¹⁶⁴ Natural law holds that the source of its content is God or nature and therefore is valid everywhere and supersedes man-made laws of states. Consequently, individuals owe their loyalty first to natural law and second to civil law, as exemplified in the New Testament passage of Jesus instructing Jews to pay Roman taxes. Holding up a Roman denarius coin with Caesar's profile on it, Jesus extorts them to 'render therefore to Caesar the things which are Caesar's, and to God the things that are God's'. See: Matt. 22:21 (The New Oxford Annotated Bible). From this parable the European separation of church and state is partially derived, creating two authorities to command the individual's allegiance. Space does not permit a genealogical survey of natural law; for an overview, see Costas Douzinas, *The End of Human Rights: Critical Legal Thought At the Turn of the Century* (Oxford: Hart Publishing, 2000), 1-109.

contravened the laws of the civil government. The pope could excommunicate kings and all their subjects, denying them entry to heaven and delegitimising them on earth in the eyes of the pious. The Church also extracted resources from land, at the expense of kingdoms, through the tithe tax and other schemes. It could raise or hire armies to march against uncooperative kings or persuade allied kingdoms to fight on behalf of the Church to secure their souls' salvation (and often treasure for their temporal comfort). Lastly, the Church maintained papal states until 1870, which could threaten neighbours. These and other elements of power made the Church a formidable and overlapping competitor to territory-based kingdoms.

The contest between sacred and temporal authorities provoked strife throughout the Middle Ages, as exemplified by the investiture controversy in the eleventh and twelfth centuries. It began as a dispute between the Holy Roman Emperor and the pope over control of ecclesiastical appointments, or investitures, of church officials such as bishops and abbots, but grew into a wider conflict over authority between a series of popes and kings. Before the conflict, the papacy nominally appointed church officials in foreign lands, since in practice secular authorities chose them. Pope Gregory VII challenged this in 1075 by asserting the *Dictatus Papae*, a collection of canons, or Church laws, which decreed that the Church was founded by God alone and therefore the papacy was the sole universal power. This gave it authority to select or remove clergy, move them from see to see, and—significantly—even depose kings.

Henry IV, the Holy Roman Emperor, ignored the pope's decree and sent a letter to Gregory VII calling for the election of a new pope. To make his intentions plain, his letter to the pope opens with 'Henry, King not through usurpation but through the holy ordination of God, to Hildebrand, at present not pope but false monk' and concludes with 'I, Henry, king by the grace of God, with all of my Bishops, say to you, come down, come down, and be damned throughout the ages'.¹⁶⁵ Thus war began between factions aligned with the pope and the emperor—Guelphs versus Ghibellines—a conflict that persisted in Italy into the fifteenth century, as portrayed by the duelling Montague and Capulet families in Shakespeare's *Romeo and Juliet*. Opportunistic princes also seized the occasion to rebel against their lieges, exchanging the yoke of the emperor for that of the pope and vice versa. The controversy later spread to other corners of Europe, in England between King Henry I and Pope Paschal II and also in France. After fifty years of war, the Concordat of Worms resolved the controversy in 1122 with the collapse of the German empire, a condition that would haunt central Europe until the reunification of Germany in the late nineteenth century. Nor is this issue strictly historical. Today this duelling authority is re-emerging in China, which ordains its own bishops for its state-run Catholic Church whom the Vatican then promptly excommunicates. In the words of one Catholic cardinal, 'it's war'.¹⁶⁶ The

¹⁶⁵ "Medieval Sourcebook: Henry IV: Letter to Gregory VII, Jan 24 1076," Internet Medieval Source Book, accessed June 2, 2010, <http://www.fordham.edu/halsall/source/henry4-to-g7a.html>.

¹⁶⁶ Rachel Donadio and Elizabeth A. Harris, "Vatican Excommunicates Chinese Bishop," *New York Times*, July 16, 2011.

foundation of Church supremacy was not based on territory but on claims to the moral sphere of individuals' lives.

Similarly, international organisations hold sway over states by making universal claims of authority concerning the welfare of individuals by means of human rights. Not coincidentally, human rights is built upon the moral edifice of Western Christian notions of natural law and focuses on the well being of individuals within states, issuing international laws that can contravene state laws.¹⁶⁷ The ICC's claim of universal jurisdiction is based on the court's commitment to the natural or 'inalienable' rights inherent in every human.¹⁶⁸

Like the Church in the Middle Ages, the global authority claimed by the human rights regime based on the universality of human rights remains controversial. In 1948 Saudi Arabia and South Africa abstained from endorsing the UN Universal Declaration of Human Rights (UDHR), a foundational document of human rights. The universalism of human rights also challenges

¹⁶⁷ I use the term human rights regime to broadly describe the principles, norms, rules and decision-making procedures accepted by international actors to regulate and promote human rights. Precise definitions of what constitutes an international regime vary. According to Krasner, 'International regimes are defined as principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area'. Stephen D. Krasner, "Structural Causes and Regime Consequences: Regimes as Intervening Variables," *International Organization* 36, no. 2 (1982): 185. According to Keohane and Nye, regimes are defined as 'governing arrangements that affect relationships of interdependence', or, more precisely, "networks of rules, norms, and procedures that regularize behavior and control its effects" in an issue-area. Robert O. Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Boston: Scott, Foresman/Little, Brown, 1977), 19. Donnelly defines it as 'norms and decision-making procedures accepted by international actors to regulate an issue area'. Jack Donnelly, "International Human Rights: A Regime Analysis," *International Organization* 40, no. 3 (1986): 602.

¹⁶⁸ On declarations of natural or inalienable rights of individuals, see for example: The Magna Carta (England, 1215); The Declaration of Arbroath (Scotland, 1320); The Bill of Rights (England, 1689); The Claim of Right (Scotland, 1689); The Declaration of Independence (United States, 1776); The Declaration of the Rights of Man and of the Citizen (France, 1789); The Bill of Rights (United States, 1789/1791); The Universal Declaration of Human Rights (United Nations, 1948); The European Convention on Human Rights (Council of Europe, 1950); The International Covenant on Civil and Political Rights (1966); The International Covenant on Economic, Social and Cultural Rights (1966); The Canadian Charter of Rights and Freedoms (Canada, 1982); and The Charter of Fundamental Rights of the European Union (European Union, 2000).

the right of a state to determine its own norms of justice and cultural identity, which is a human rights violation in itself: ‘everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights’.¹⁶⁹ Concerns that the universality of human rights would threaten the customs of non-Western peoples led to the Declaration of Indigenous Rights, adopted in Panama in 1984 by the NGO World Council of Indigenous People. Similarly, the Vienna Declaration on Human Rights in 1993 acknowledges ‘the significance of national and regional particularities and various historical, cultural and religious backgrounds’ in the face of human rights’ universalism. The Bangkok Declaration of Human Rights of 1993 asserts that human rights, as generally conceived, do not accord with ‘Asian values’ that oppose some Christian and democratic values.

Islamic nations also contest the universality of human rights, claiming they do not account for values implicit in sharia. The 1982 Iranian representative to the UN, Said Rajaie-Khorassani, argued that ‘the Universal Declaration of Human Rights, which represented a secular understanding of the Judeo-Christian tradition, could not be implemented by Muslims’.¹⁷⁰ This position was formalized in the Cairo Declaration on Human Rights in Islam and adopted by the fifty-six member states of the Organisation of the Islamic Conference in 1990. Later, the League of Arab States passed the Arab Charter

¹⁶⁹ U.N. General Assembly, Resolution 2200A, “International Covenant on Economic, Social, and Cultural Rights,” December 16, 1966, <http://www2.ohchr.org/english/law/ceschr.htm>.

¹⁷⁰ Organization of the Islamic Conference, UN Doc. A/Conf.157/PC/62/Add. 18, “Cairo Declaration on Human Rights in Islam,” August 5, 1990; cited in: David Littman, “Universal Human Rights and Human Rights in Islam,” *Midstream* 42, no. 2 (1999): 2-7.

on Human Rights (2004, entered into force 2008). Each of these challenges to the universalism of human rights implicitly proposes a competing world vision of justice and legitimacy that sets the groundwork for a neomedieval environment of multiple authorities and allegiances.

Nor is the universalism of human rights uncontested in Western scholarship. Academic debate concerning universalism versus cultural relativism generally focus on a Western tendency toward universalism and a non-Western tendency to highlight cultural identity.¹⁷¹ This is not surprising given the Christian-European origins of the concept and the Western values, ethics and norms embedded in human rights. Mohammed Ayoob argues that human rights smack of colonialism since they stand for Western ideas of progress: ‘One cannot help but notice echoes of the “standard of civilization” argument’, which risks ‘bifurcating international society into civilized and uncivilized zones’.¹⁷² Even human rights advocate Michael Ignatieff acknowledges that human rights have a certain ‘imperialistic’ quality:

Human rights doctrine is now so powerful, but also so unthinkingly imperialist in its claim to universality, that it has exposed itself to serious intellectual attack. These challenges have raised important questions about whether human rights

¹⁷¹ Sonia Harris-Short, “International Human Rights Law: Imperialist, Inept and Ineffective? Cultural Relativism and the Un Convention on the Rights of the Child,” *Human Rights Quarterly* (2003), 130-81; Du Gangjian, and Song Gang, “Relating Human Rights to Chinese Culture: The Four Paths of the Confucian Analects and the Four Principles of a New Theory of Benevolence,” *Human Rights and Chinese Values: Legal, Philosophical, and Political Perspectives*, ed. Michael C. Davis (Hong Kong: Oxford University Press, 1995), 35-56; Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (Philadelphia: University of Pennsylvania Press, 2000); Jim Ife, *Human Rights and Social Work: Towards Rights-Based Practice* (Cambridge: Cambridge University Press, 2001); Micheline R. Ishay, *The History of Human Rights: From Ancient Times to the Globalization Era* (Berkeley: University of California Press, 2008); Elisabeth Reichert, “Human Rights: An Examination of Universalism and Cultural Relativism,” *Journal of Comparative Social Welfare* 22, no. 1 (2006): 23-36.

¹⁷² Ayoob, “Humanitarian Intervention and State Sovereignty,” 84.

norms deserve the authority they have acquired: whether their claims to universality are justified, or whether they are just another cunning exercise in Western moral imperialism.¹⁷³

Countries where international human rights law and national law overlap and even clash are plentiful: in cases of forced child labour in developing states such as Uzbekistan, female genital mutilation in countries such as Senegal and Yemen, and police abuse in countries like China.¹⁷⁴ Women's rights in Saudi Arabia provide an excellent example of human rights versus state laws. Gender roles in Saudi society do not originate in Western liberal notions of equality but sharia and Arabic tribal culture, which are patriarchal, with the role of honour (*namus*) at its centre. Many practices are considered objectionable and even illegal under human rights law, which demands equal rights for the sexes.¹⁷⁵ Saudi law mandates the segregation of the sexes (*purdah*). Women must wear a head-to-toe veil (*niqab*) in public and, regardless of age, must have a male guardian. They may not drive, vote or be elected to high political positions, and are discouraged from education.

International human rights observers strongly condemn the Saudi practices and frequently accuse the country of 'gender apartheid'.¹⁷⁶ The 2009

¹⁷³ Michael Ignatieff, "The Attack on Human Rights," *Foreign Affairs* 80, no. 6 (2001): 102.

¹⁷⁴ Respectively: International Labor Rights Forum, *Pick All the Cotton: Update on Uzbekistan's Use of Forced Child Labor in 2009 Harvest* (Washington, DC, 2009); UNICEF Innocenti Research Center, *Changing a Harmful Social Convention: Female Genital Mutilation/Cutting*, (Italy: UNICEF, 2005); "I Saw it With My Own Eyes" *Abuses By Chinese Security Forces in Tibet, 2008-2010* (New York City: Human Rights Watch, 2010).

¹⁷⁵ The UDHR asserts 'the equal rights of men and women' and addressed both equality and equity. In 1979 the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), described as an international bill of rights for women and came into force on 3 September 1981.

¹⁷⁶ Tom Lantos, "Discrimination Against Women and the Roots of Global Terrorism," *Human Rights Magazine* 29 (Winter 2002): 7.; Colbert I. King, "Saudi Arabia's Apartheid," *The Washington Post*, December 22, 2001, A24.; Ann Elizabeth Mayer, "A 'Benign' Apartheid: How Gender Apartheid Has Been Rationalized," *UCLA Journal of International Law and Foreign Affairs* 5 (2000): 237-338.

World Economic Forum ranked Saudi Arabia 130th out of 134 countries for gender parity.¹⁷⁷ Saudi Crown Prince Abdullah bin Abdul Aziz defended his country's laws before the UN, saying, 'it is absurd to impose on an individual or a society rights that are alien to its beliefs or principles'.¹⁷⁸ Nor is the crown prince alone; many women in Saudi Arabia defend their customs and many domestic reformers reject the prescriptions of the human rights regime, criticizing them for 'failing to understand the uniqueness of Saudi society'.¹⁷⁹ Even Maha Akeel, a Saudi journalist and critic of her government, agrees that the human rights criticisms are ethnocentric, hegemonic and ultimately unhelpful: "Look, we are not asking for ... women's rights according to Western values or lifestyles.... We want things according to what Islam says. Look at our history, our role models".¹⁸⁰

The universalism of the human rights regime clashes with the particularism of state sovereignty, as demonstrated by the ICC's claim of planetary jurisdiction and the issuance of arrest warrants for heads of state. Like the medieval Church, the human rights regime seeks to extend its authority through its own canons—international laws—that overlap with state authority, which is reminiscent of the Middle Ages.

¹⁷⁷ Ricardo Hausmann, et al., *The Global Gender Gap Report 2009* (Geneva: World Economic Forum, 2009).

¹⁷⁸ "Crown Prince Abdullah's Address to the United Nations, September 6, 2000," Saudi Arabia Market Information Resource and Directory, accessed September 11, 2010, <http://www.saudinf.com/main/x007.htm>.

¹⁷⁹ See for example: Katherine Zoepf, "Talk of Women's Rights Divides Saudi Arabia," *The New York Times*, May 31, 2010; Andrew Lee Butters, "Saudi's Small Steps," *Time Magazine*, October 19, 2009; Faiza Saleh Ambah, "Saudi Women Rise in Defense of the Veil," *The Washington Post*, May 31, 2006.

¹⁸⁰ Betsy Hiel, "Dhahran Women Push the Veil Aside," *The Pittsburgh Tribune-Review*, May 13, 2007, accessed September 11, 2010, http://www.pittsburghlive.com/x/pittsburghtrib/news/middleeastreports/s_507462.html.

A New Covenant

Perhaps the most central competitor to state authority is the UN, as its post–Cold War strategy has allowed it to gradually but inexorably elevate itself from intergovernmental forum to legitimate international actor rivalling states. It has achieved this by offering a new and competing ‘social contract’ with states’ citizens resulting in mixed authorities and allegiances. The idea of the social contract, a term coined by Jean-Jacques Rousseau, builds on natural law and originates with Enlightenment philosophers Thomas Hobbes and John Locke. Hobbes introduced the idea of individual ‘natural rights’, which are privileges that all humans possess by nature and are not contingent upon man-made laws. For Hobbes, individuals possess only the natural right to life, but later Locke expanded the concept to ‘human rights’, which include life, health, liberty and possessions; these are the basis for the United States Declaration of Independence’s pronouncement that every person has the inalienable right to life, liberty and the pursuit of happiness. Similarly, the human rights articulated in the UDHR flow from the ‘inherent dignity’ and ‘equal and inalienable rights’ natural to all humans, and therefore are derived from moral imperatives superior to those within any system of positive law.¹⁸¹

According to contract theorists, all legitimate governments are obliged to protect the rights of their citizens. In exchange the citizens consent to live

¹⁸¹ U.N. General Assembly, “The Universal Declaration of Human Rights,” December 10, 1948, <http://www.un.org/en/documents/udhr/index.shtml>; Tom Campbell, “A Human Rights Approach to Developing Voluntary Codes of Conduct for Multinational Corporations,” *Business Ethics Quarterly* 16, no. 2 (2006): 255–269.

by the state's rule of law, so long as it does not violate their human rights. As the term *social contract* implies, the legitimacy of any governing authority rests on the consent of the governed, as Hobbes makes explicit: 'the power of the mighty (the Leviathan) hath no foundation but in the opinion and belief of the people'.¹⁸² Historically this contract or 'covenant' as Hobbes describes it, referred mainly to the relationship between a state government and its citizens, but the UN is engineering a new covenant between itself and all the people of the world, bypassing the state for people's loyalties. Analogous to the Church of the Middle Ages, the UN has staked out unique authority in the international system by claiming universal jurisdiction over the individuals in order to protect their welfare in the name of human rights.

Like a Leviathan, the UN now polices states to ensure that they are fulfilling their end of the social contract to safeguard the rights of citizens, as outlined in the UDHR, rather than according to the states' own interpretations of rights. Accordingly, this new contract promises that the UN will protect people from abusive governments that 'manifestly fail' to uphold their human rights in exchange for individuals' allegiance to UN principles. This is not a fully novel proposition. The UN was founded in the wreckage of World War II to monitor governments' performance in protecting the human rights of their citizens, as articulated in the UDHR adopted by the UN General Assembly in 1948. The UDHR represents the first global expression of rights

¹⁸² Quoted in Michael C. Williams, "The Hobbesian Theory of International Relations: Three Traditions," in *Classical Theory in International Relations*, ed. Beate Jahn (Cambridge: Cambridge University Press, 2006), 265.

to which all human beings are entitled, and though the UN had little power to compel states to honour these rights at the time, through recent doctrines such as Responsibility to Protect (R2P), the UN has generated authority within the international system and legitimize its power by claiming that it is honouring its social contract to defend human rights of all people everywhere, even when that puts it at odds with the state (see Figure 1). The UN covenant pledges peace by curtailing state sovereignty and limiting the ‘vanity of nations’, which assumes a certain yet ambiguous path to conflict.¹⁸³ In its place, the UN calls to create a worldwide, UN-led network of international organisations to maintain international peace and security through a self-styled cosmopolitanism dedicated to the ideals enshrined in the UDHR.

Figure 1: The Creation of Overlapping Authorities



The increasing authority exerted by the UN on behalf of individuals does not infer a reciprocal growth of individual loyalty to the UN—the UN is not the Roman Catholic Church. The UN does not command the degree of individual allegiance that the Church does either in the Middle Ages or today,

¹⁸³ Patricia McNerney, “The International Criminal Court: Issues for Consideration By the United States Senate,” *Law and Contemporary Problems* 64, no. 1 (2001):185.

nor does this thesis suggest it someday will. But this does not diminish some of the parallels between the UN and the medieval Church regarding how they create and justify overlapping authority with territorial states via the protection of individuals' well-being. The medieval Church defended its heavy-handed political involvement in states' internal affairs by asserting its role as ministering to the sacred needs of individuals. Similarly, the UN legitimizes its interference in the politics of modern states by asserting its responsibility to protect the human rights of all individuals. Such universal claims made on behalf of individuals everywhere allow the UN to challenge state rulers, as the Church did in the Middle Ages. In this way, the UN is creating overlapping authorities as the medieval Church did but not necessarily commensurate competing allegiances.

The UN's new role as overseer of states rather than merely a facilitator of diplomacy is evident in the muscular rhetoric of Secretary-General Ban Ki-moon, who says he 'has an obligation to tell the Security Council—and in this case the General Assembly as well—what it needs to know, not what it wants to hear' and that the secretary-general 'must be the spokesperson for the vulnerable and the threatened when their Governments become their persecutors instead of their protectors or can no longer shield them from marauding armed groups'. He also advises the five permanent members of the Security Council, also known as the P5—China, France, Russian Federation, the United Kingdom and the United States—to voluntarily curtail their power:

‘I would urge them to refrain from employing or threatening to employ the veto in situations of manifest failure to meet obligations relating to the responsibility to protect ... and to reach a mutual understanding to that effect’.¹⁸⁴ Such proclamations from the UN Secretary-General to states would have likely been unthinkable during the Cold War era. But that has changed since the Cold War ended.

The UN Ascension

The UN perceived the fall of the Berlin Wall as its opportunity to transcend the constraints of state sovereignty. A year after the Soviet Union formally capitulated, then-UN secretary general Boutros Boutros-Ghali boldly declared that ‘the time of absolute sovereignty ... has passed; its theory was never matched by reality’.¹⁸⁵ He then outlined an ambitious new plan for the UN that re-imagined a future world order under which the UN, not states, was the ultimate arbiter of war and peace. The strategy, contained in a report titled *An Agenda for Peace*, begins by describing a ‘global transition’ to a new world order that is distinctly neomedieval in nature. It is characterized by greater regional integration, as ‘regional and continental associations of States are evolving ways to deepen cooperation and ease some of the contentious characteristics of sovereign and nationalistic rivalries’. The report also notes the increased disintegration of states due to the technological unification of the world:

¹⁸⁴ All these quotes taken from: U.N. General Assembly, A/63/677, “Implementing the Responsibility to Protect: Report of the Secretary-General,” January 12, 2009, http://www.unrol.org/files/SG_reportA_63_677_en.pdf.

¹⁸⁵ Boutros Boutros-Ghali, “An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping,” *International Relations* 11, no. 3 (1992): 201.

‘National boundaries are blurred by advanced communications and global commerce, and by the decisions of States to yield some sovereign prerogatives to larger, common political associations’. This has created overlapping authorities and allegiances that has led to conflict, as ‘fierce new assertions of nationalism and sovereignty spring up, and the cohesion of States is threatened by brutal ethnic, religious, social, cultural or linguistic strife’. The solution, of course, is a more muscular UN capable of bringing about world peace and justice in the name of human rights:

In these past months a conviction has grown, among nations large and small, that an opportunity has been regained to achieve the great objectives of the Charter—a UN capable of maintaining international peace and security, of securing justice and human rights and of promoting, in the words of the Charter, ‘social progress and better standards of life in larger freedom’. This opportunity must not be squandered. The Organisation must never again be crippled as it was in the era that has now passed.¹⁸⁶

To ensure that the UN is never again ‘crippled’, the report lays out a strategy that promotes UN interference in the domestic affairs of states, such as a deployed UN force, in the name of safeguarding individuals’ human rights. The first component of the strategy is ‘preventative diplomacy’, which involves the UN acting as the driving mediator in conflicts, a far cry from its previous role as a forum for diplomacy between parties in conflict, as exemplified by the United States and Soviet Union during the Cuban Missile Crisis. Furthermore, preventative diplomacy allows the UN to conduct fact-finding missions in

186 Boutros-Ghali, “An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping.”

countries and even permits the deployment of UN-authorized forces to militarily stop conflicts before they begin.

The second element of the strategy is ‘peacemaking’, which is designed to bring hostile parties to agreement primarily through peaceful means, such as the International Court of Justice or World Court, which is similar to the ICC. However, if this is not possible the UN may use ‘peace enforcement’, which entails unauthorised military intervention into—some might say invasion of—a country without its consent, in a stark departure from the principle of sovereignty.

Third is ‘peacekeeping’, involving the traditional deployment of military forces in a conflict zone, with the consent of all warring parties, to maintain peace. What is new in *An Agenda for Peace* is the UN aspiration to field significantly more peacekeeping missions in the future, thus extending its authority and presence globally, with a broader scope of missions and capabilities.

Fourth, the strategy addresses ‘post-conflict peace-building’, which involves developing the social, political and economic infrastructure, informed by a human rights agenda, to prevent further violence and consolidate the peace. Lastly, section VII of the strategy calls for the creation of a worldwide network of international organisations, led by the UN, to maintain international peace and security. *An Agenda for Peace* is a sweeping declaration of international organisations’ authority over states to manage global power,

catalysing the conditions of overlapping authorities within the international system.

Concomitantly, efforts have been underway to redefine sovereignty in ways that bestow new authority to international organisations. As noted in Chapter 1, the Westphalian notion of sovereignty held that states were the supreme authority within a territory, were obliged to recognize other states as peers, and cleaved to the principle of non-interference in the domestic affairs of those states. Such a notion of sovereignty poses obvious problems to non-state entities that do not possess territory, such as international organisations. The UN solution has been simply to reframe the parameters of sovereignty from being territorially based to human rights based. In the wake of the Rwandan genocide, Francis Deng, the UN representative of the secretary-general on internally displaced persons, and his colleagues redefine sovereignty, claiming that it can no longer be seen as a protection against interference but rather as a charge of responsibility to uphold human rights as enshrined in the UDHR.¹⁸⁷ Furthermore, they assert that when countries do not conduct their internal affairs in ways that meet these human rights standards, other states or international organisations—specifically the UN—have a duty to intervene. In other words, sovereignty carries a responsibility to promote the welfare and dignity of people, and predatory or incompetent states that fail to fulfill their

¹⁸⁷ Francis Mading Deng, et al., *Sovereignty as Responsibility: Conflict Management in Africa* (Washington, DC: Brookings Institution Press, 1996).

responsibility forfeit their sovereignty. For states, non-interference becomes a privilege, not a right.

Congruent to Deng's understanding of sovereignty, the UN also reframed 'security' away from 'national security' to 'human security', shifting power to international organisations by linking peace to human rights and development rather than the traditional security of states. The concept was first articulated in the 1994 UN Development Programme's (UNDP) *Human Development Report*, which radically redefines conflict away from the traditional Clausewitzian understanding of the term (see Figure 2). It is no coincidence that the report originates from UNDP rather than the UN security wing, the UN Department of Peacekeeping Operations (UNDPKO). The report argues that national security matters less when 'several states are beginning to disintegrate' and the primary threats to global insecurity stem from failures of development—drugs, AIDS, terrorism, pollution, nuclear proliferation, corruption—rather than strong rival states. These new threats 'respect no national border', and 'the search for human security lies in development, not in arms'.¹⁸⁸

By conceptualizing security and development as inextricably linked and mutually reinforcing, the UN endows itself with special power because it is one of the world's largest suppliers of development resources and services. Formulating human security in terms of the economy, food, health, the

¹⁸⁸ United Nations Development Program, *Human Development Report 1994* (Oxford: Oxford University Press, 1994), 2.

environment, the individual, community and politics make the well being of the individual central; human security is less concerned with the status of the state and its capital and more concerned about the broader range of threats to individuals that transcend national borders—another blow to the state-centric Westphalian system.

Figure 2: The UN’s Re-Conceptualisation of “Security” in the Post-Cold War World



Following this new strategy for the post–Cold War world and novel doctrine of security, the UN began to flex its collective muscle over states in the form of armed ‘humanitarian interventions’:¹⁸⁹ the UN Assistance Mission for Rwanda (UNAMIR) in 1994, the UN Transitional Administration in East Timor (UNTAET) in 1999, and the NATO bombing of Yugoslavia in 1999. Such grave breaches of sovereignty were anathema under the Westphalian system but are now a norm in the neomedieval context. Even the world’s greatest military superpower endorses the practice, as expressed by President Barack Obama in his acceptance speech of the Nobel Peace Prize: ‘I believe

¹⁸⁹ Sean D. Murphy, *Humanitarian Intervention: The United Nations in an Evolving World Order* (Philadelphia: University of Pennsylvania Press, 1996), 3.

that force can be justified on humanitarian grounds, as it was in the Balkans, or in other places that have been scarred by war'.¹⁹⁰

The tension inherent in humanitarian intervention encapsulates that between the Westphalian and neomedieval orders. Such extreme violations of sovereignty are historically illegal under customary international law, as enshrined in the UN Charter itself. Article 2(4) of the Charter forbids 'the threat or use of force against the territorial integrity or political independence of any state' while Article 2(7) specifies that the UN cannot 'intervene in matters which are essentially within the domestic jurisdiction of any state' with the possible exception of Chapter VII peacekeeping. Yet, fifty years after it was founded, the UN principally authorises today's humanitarian interventions, completing the organisation's metamorphosis from intergovernmental body to global actor. The UN justifies the interventions under Article 39 of Chapter VII of the UN Charter, which authorizes the Security Council to 'decide what measures shall be taken in accordance with Articles 41 and 42, to maintain peace and security'. Article 41 stipulates that the Security Council may employ non-military means, such as economic sanctions, to enforce peace, while Article 42 empowers the Security Council to 'take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security'. A Chapter VII peacekeeping mandate

¹⁹⁰ Barack Obama, "Remarks By the President At the Acceptance of the Nobel Peace Prize," December 10, 2009, <http://www.whitehouse.gov/the-press-office/remarks-president-acceptance-nobel-peace-prize>.

permits a military invasion into a country to maintain international 'peace and security'.

Although Chapter VII has been invoked several times since 1948, the vast majority of them have taken place after the Cold War, indicating the UN's willingness to exercise this unique authority. The total number of Chapter VII resolutions adopted during the Cold War was seventeen, comprising only 2.6 per cent of all security resolutions. By contrast, from 1990 to 2006 more than one-third of all security resolutions were adopted under Chapter VII, averaging over twenty per year. In 2005 and 2006, Chapter VII resolutions constituted more than 50 per cent of all resolutions, and in 2006 the Security Council approved more than forty Chapter VII resolutions.¹⁹¹ During the Cold War, the Council was reluctant to violate the principle of sovereignty, given the hegemonic strength of the Westphalian order, as demonstrated by the Council's regime of voluntary sanctions in reaction to Rhodesia's unilateral declaration of independence in 1965.¹⁹² When armed interventions occurred during the Cold War they were rarely justified on humanitarian grounds.¹⁹³ However, once the Security Council was freed from the bipolar shackles of the Cold War it demonstrated an increased willingness to intervene in countries for the sake of human rights, and has done so in Rwanda, East Timor,

¹⁹¹ Patrick Johansson and Ramses Amer, "The United Nations Security Council and the Enduring Challenge of the Use of Force in Interstate Relations" (Umeå Working Papers in Peace and Conflict Studies No. 3, Department of Political Science, Umeå University, 2007), 6.

¹⁹² The resolution called on all members of the UN to withhold recognition of Rhodesia, refuse assistance to its government, sever economic relations with Salisbury and embargo petroleum shipments to the rebellious colony. See: Gary Clyde Hufbauer, et al., *Economic Sanctions Reconsidered: Supplemental Case Histories* (Washington, DC: Peter G. Peterson Institute for International Economics, 1990).

¹⁹³ For an overview of interventions during the Cold War, see: Sean D. Murphy, *Humanitarian Intervention: The United Nations in an Evolving World Order*, Chapter 4.

Kosovo, Liberia, Sierra Leone, Sudan, Somalia, Burundi, Haiti, Côte d'Ivoire and the DRC.¹⁹⁴

At the turn of the millennium, the UN took another giant leap forward by evolving the 'right of humanitarian intervention' into the 'responsibility to protect' (R2P) doctrine, demanding a UN intervention in states which fail to respect human rights.¹⁹⁵ This shift from a reactive to proactive stance originated in the 2001 report entitled *The Responsibility to Protect*, which answers the following question posed by Secretary General Kofi Annan: "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations of human rights that affect every precept of our common humanity?"¹⁹⁶ Influenced by Deng, the report concludes that sovereignty is not a right but a responsibility, and when states fail to protect the human rights of their citizens, the international community has a responsibility to protect those

¹⁹⁴ For more on the relationship between the Cold War, UN humanitarian intervention and human rights, see: Murphy, *Humanitarian Intervention: The United Nations in an Evolving World Order*, 317; Michael Walzer, *Just and Unjust Wars: A Moral Argument With Historical Illustrations*, 4th ed. (New York: Basic Books, 2006), xiii; Christopher Greenwood, "International Law and the NATO Intervention in Kosovo," *International and Comparative Law Quarterly* 49, no. 4 (2008): 930; Allen G. Sens, "From Peace-Keeping to Peace-Building: The United Nations and the Challenge of Intrastate War," in *The United Nations and Global Security*, ed. Richard M. Price and Mark W. Zacher (New York: Palgrave Macmillan, 2004), 143. For a listing of Chapter VII interventions see: Patrick Johansson, *UN Security Council Chapter VII Resolutions, 1946-2002: An Inventory* (Uppsala: Department of Peace and Conflict Research, 2003).

¹⁹⁵ At the 2005 UN World Summit, member states included R2P in the outcome document, agreeing to paragraphs 138 and 139, which articulate the scope of R2P and to whom the responsibility actually falls (i.e., nations first, regional and international communities second). In April 2006, the UN Security Council reaffirmed the provisions of paragraphs 138 and 139 in a resolution (S/RES/1674) on the protection of civilians in armed conflict, thereby formalising their support for the norm. In January 2009 the UN secretary-general, Ban Ki-Moon, released a report called 'Implementing the Responsibility to Protect', which further argues for the implementation of R2P. See: U.N. General Assembly, Resolution 60/1, "2005 World Summit Outcome."; U.N. General Assembly, A/63/677, "Implementing the Responsibility to Protect."

¹⁹⁶ *The Responsibility to Protect: Report of the International Commission On Intervention And State Sovereignty* (Ottawa: International Development Research Centre, 2001), vii.

individuals, even if it requires a breach of sovereignty such as an armed humanitarian intervention.¹⁹⁷ R2P concentrates on halting four crimes in particular—genocide, war crimes, crimes against humanity and ethnic cleansing—but at its core is a broader concern for human rights.¹⁹⁸

UN member states unanimously affirmed the R2P doctrine at the 2005 World Summit,¹⁹⁹ and in 2009 Secretary General Ban Ki-moon released a report called *Implementing the Responsibility to Protect* that proposes a three-pillar strategy to realise R2P: the responsibility of states to protect their populations, national or not; the commitment of the international community to assist states in meeting those obligations; and the responsibility of member states to respond collectively in a timely and decisive manner when a state is manifestly failing to provide such protection. Citing *Sovereignty as Responsibility* as the new model of global authority, Ki-moon urges all states to embrace the ICC and the judgments of UN-assisted tribunals as an ‘essential tool’ for justice, noting that ‘national authorities should do their best to assist the International Criminal Court and other international tribunals in locating and apprehending individuals’.²⁰⁰ In a triumph for the human rights regime, R2P has elevated humanitarian intervention from an optional right to a duty, and has done so with the unanimous consent of states.

¹⁹⁷ U.N. General Assembly, Resolution 60/1, “2005 World Summit Outcome,” paragraphs 138 and 139.

¹⁹⁸ U.N. General Assembly, A/63/677, “Implementing the Responsibility to Protect,” 11.

¹⁹⁹ The timing of this was partly due to the ongoing mass killings in Darfur. Despite the fact that the United States and other states formally recognized the situation in West Sudan as genocide, they did not intervene to help end it. R2P was designed to buttress the Convention on the Prevention and Punishment of the Crime of Genocide, which was largely ignored in the case of Darfur.

²⁰⁰ *Ibid*, 12.

Spiritual versus Temporal Authorities

The emerging tension between international organisations and states parallels the jostling between popes and kings in the Middle Ages. Wars between sacred and secular authorities were not uncommon, and the Church's hand in the temporal affairs of states was omnipresent, from the succession of kings to the Crusades. Popes justified this intervention in the affairs of states by asserting universal jurisdiction over all human beings in order to minister to the salvation of their souls. As Pope Boniface VIII makes clear in a papal bull, 'the temporal authority [is] to be subjected to the spiritual' and concludes with the following statement: 'We declare, announce and define that it is altogether necessary to salvation for every human creature to be subject to the Roman pontiff'.²⁰¹

The human rights regime promoted by international organisations such as the UN and ICC make similar claims. They too assert universal jurisdiction over all human individuals regardless of state borders, justified by their duty to safeguard human rights as enshrined in the UDHR. Like the Christian canons of the Middle Ages, modern human rights are framed as natural laws that supersede the positive law of states. The power and legitimacy of international law rests upon the 'faith in fundamental human rights', as declared in the preamble to the UDHR, akin to the religious belief that informs Church canons in the Middle Ages. Although more diplomatic than Pope Boniface

²⁰¹ Pope Boniface VIII, "The Bull 'Unam Sanctam' (1299 A.D.)," in *Select Historical Documents of the Middle Ages*, ed. and trans. Ernest F. Henderson (London: G. Bell and Sons, 1905), 435-437.

VIII, Ki-moon makes equally clear that the UN has authority to interfere in the domestic affairs of states, even using force if necessary: ‘The State, by fulfilling fundamental protection obligations and respecting core human rights, would have far less reason to be concerned about unwelcome intervention from abroad’.²⁰²

Such overlapping claims of authority have been contested fiercely, both in the Middle Ages and today. Frederick Barbarossa, King of Germany, sums up the sentiments of many temporal leaders of his time when he quotes the apostle and first pope Peter in defence of a king’s right to rule *sans* papal meddling: ‘Peter informed the world with this teaching, “Fear God, honour the king”’: whoever shall say that we received the imperial crown as a benefice from the lord pope, contradicts the divine institutions and teachings of Peter, and shall be guilty of a lie’.²⁰³ Similarly, the precedent of R2P and the emerging power of the UN to stage military interventions in states worries both strong and weak states alike, such as Brazil, the Russian Federation, China, Algeria, and Egypt. In 1999, Algerian president Abdelaziz Bouteflika expressed these concerns directly in a speech given on the opening day of the General Assembly debates: ‘We do not deny that the UN has the right and the duty to help suffering humanity, but we remain extremely sensitive to any undermining of our sovereignty, not only because sovereignty is our last defence against the rules of an unequal world, but because we are not taking part in the decision-

²⁰² U.N. General Assembly, A/63/677, “Implementing the Responsibility to Protect,” 6.

²⁰³ Frederick Barbarossa, “Manifesto of the Emperor (Oct. 1157),” in *Select Historical Documents of the Middle Ages*, ed. and trans. Ernest F. Henderson, (London: G. Bell and Sons, 1905), 412-414.

making process of the Security Council'.²⁰⁴ Even three of the five permanent members of the Security Council—the Russian Federation, China, and the United States—have expressed trepidation over the precedent set by R2P. Liu Zhenmin, the Chinese ambassador to the UN, bluntly said, "There must not be any wavering over the principles of respecting state sovereignty and non-interference of internal affairs'.²⁰⁵ Similarly, the United States gave a tepid cheer to R2P but qualified its vote with a cautionary statement analogous in content, if not in tone, to Barbarossa: 'the primary responsibility for protecting civilians lies with States and their Governments and ... international efforts should complement Government efforts rather than assume responsibility for them'.²⁰⁶

A succinct example of the rise of international organisations, and by extension globalised neomedievalism, is the controversy surrounding the 2010 Nobel Peace Prize. Consistent with the supranationalist agenda of the human rights regime, the Nobel committee awarded the peace prize to imprisoned Chinese human rights activist Liu Xiaobo 'for his long and non-violent struggle for fundamental human rights in China'.²⁰⁷ China, which views him as a criminal, immediately denounced the award as an affront to China's sovereignty because it challenges the legitimate authority of the state to

²⁰⁴ Barbara Crossette, "UN Chief Wants Faster Action to Avoid Slaughter in Civil Wars," *New York Times*, September 21, 1999.

²⁰⁵ Liu Zhenmin, "Statement By Ambassador Liu Zhenmin At the Plenary Session of the General Assembly on the Question of 'Responsibility to Protect'," July 24, 2009, accessed September 23, 2010, <http://www.china-un.org/eng/hyfy/t575682.htm>.

²⁰⁶ U.N. Security Council, S/PV.5319, "5319th Meeting Debate Transcript," December 9, 2005.

²⁰⁷ "The Nobel Peace Prize 2010 Liu Xiaobo," Nobelprize.org, July 24, 2011, http://nobelprize.org/nobel_prizes/peace/laureates/2010/press.html.

establish and enforce laws within its territorial boundaries, which is core to the Westphalian order. As Foreign Ministry spokesman Ma Zhaoxu said, ‘The Norwegian Nobel Committee, by giving the Peace Prize to a convicted person in China, shows no respect for the judicial system of China’ and warned meddling foreigners that ‘if some people try to change China’s political system in this way and try to stop the Chinese people from moving forward, they are obviously making a mistake’.²⁰⁸ Additionally, China formally protested Norway, cancelled several planned official meetings, and publicly declared that China-Norway relations had been damaged.²⁰⁹ In defence of the award, Thorbjorn Jagland, chairman of the Norwegian Nobel Committee, boldly asserted a supranationalist position by claiming that states are subservient to the world government embodied in the UN and they must acquiesce to the norms of human rights:

The idea of sovereignty changed ... during the last century, as the world moved from nationalism to internationalism. The UN, founded in the wake of two disastrous world wars, committed member states to resolve disputes by peaceful means and defined the fundamental rights of all people in the Universal Declaration of Human Rights. The state, the declaration said, would no longer have ultimate, unlimited power. Today, universal human rights provide a check on arbitrary majorities around the world, whether they are

²⁰⁸ “China Questions ‘True Intentions’ of Award of Nobel Peace Prize to Liu Xiaobo,” *Xinhua News*, October 12, 2010, accessed October 31, 2010, http://news.xinhuanet.com/english2010/china/2010-10/12/c_13553857.htm.

²⁰⁹ Tania Branigan, “Liu Xiaobo Nobel Win Prompts Chinese Fury,” *The Guardian*, October 8, 2010.; Steven Jiang, “China Blanks Nobel Peace Prize Searches,” *CNN*, October 8, 2010, accessed October 30, 2010, http://articles.cnn.com/2010-10-08/world/china.internet_1.great-firewall-china-proxy-servers?_s=PM:WORLD.; “Awarding Liu Xiaobo Nobel Peace Prize May Harm China–Norway Relations, Says FM Spokesman,” *Xinhua News*, October 8, 2010, accessed October 31, 2010, http://news.xinhuanet.com/english2010/china/2010-10/08/c_13547668.htm.; “China Protests as Liu Xiaobo Wins Nobel Prize,” *RTE News and Current Affairs*, October 8, 2010.

democracies or not. A majority in a parliament cannot decide to harm the rights of a minority, nor vote for laws that undermine human rights. And even though China is not a constitutional democracy, it is a member of the UN, and it has amended its Constitution to comply with the Declaration of Human Rights.²¹⁰

The controversy between China and the Nobel committee is emblematic of the larger shift from an international society of states to pluralistic global order of multiple authorities, challenging the foundations of the Westphalian order and characteristic of the competing authorities and allegiances that comprise globalised neomedievalism.

Just as globalisation has led to the growing irrelevance of national borders, international organisations have corroded the Westphalian order and replaced it with their own cosmopolitanism—and they have done this with the consent of their member states by framing the debate as one of collective self-interest above the interests of a single state. Contrary to Bull’s assumption that combining smaller sovereign entities into a larger one does not impugn the validity of sovereignty, international organisations have proven to be more than the sum of their parts. The idea that international organisations could authorize an armed intervention into another state against its will would have been absolutely unthinkable to Bull; he assumed that global politics would remain state centric and other actors, such as the UN, could never deprive ‘the concept of sovereignty of its utility and viability’.²¹¹ As he wrote after *The Anarchical Society*, “The reluctance evident in the international community even

²¹⁰ Thorbjorn Jagland, “Why We Gave Liu Xiaobo a Nobel,” *The New York Times*, October 22, 2010.

²¹¹ Bull, *The Anarchical Society*, 264.

to experiment with the conception of a right of humanitarian intervention reflects not only an unwillingness to jeopardize the rules of sovereignty and non-intervention by conceding such a right to individual states, but also the lack of any agreed doctrine as to what rights are'.²¹²

Today, sovereignty has in fact receded as governance has replaced government, and states are increasingly enforcing laws established by international organisations. For McGrew, the potent combination of globalisation and the rise of international organisations has created a global polity where 'interests are articulated and aggregated, decisions are made, values allocated and policies conducted through international or transnational political processes'.²¹³ This has blurred the barrier between domestic and foreign affairs, or in the words of the former president of the International Court of Justice, Rosalyn Higgins, 'the state can no longer protect itself by claiming domestic jurisdiction'.²¹⁴

In the span of two decades since the fall of the Berlin Wall, the UN has successfully transformed itself from a world stage for international relations into an actor upon it. Many international organisations, with the UN leading the charge, have successfully asserted their authority among states, which must now share authority with external political actors within their own territory.

²¹² Bull, "Justice in International Relations," 193.

²¹³ Anthony McGrew, "Globalization and Global Politics," in *The Globalization of World Politics: An Introduction to International Relations*, 3rd ed. ed. John Baylis and Steve Smith (Oxford: Oxford University Press, 2005), 25.

²¹⁴ Rosalyn Higgins, "Intervention and International Law," in *Intervention in World Politics*, ed. Hedley Bull (Oxford: Clarendon Press, 1984), 36. For more of this viewpoint, see: Greenwood, "International Law and the NATO Intervention in Kosovo." For an overview of the scholarly debate on sovereignty, see: Jennifer M. Welsh, "Authorizing Humanitarian Intervention," in *The United Nations and Global Security*, ed. Richard M. Price and Mark W. Zacher (New York: Palgrave Macmillan, 2004), 177–192.

Like the Church of the Middle Ages, the universal appeal of human rights has given international organisations growing power to determine the legitimacy of rulers and sanction those they deem abhorrent to the welfare of individuals, such as the ICC's decision to investigate Gadhafi for crimes against humanity in his brutal repression of an internal revolt.²¹⁵ They have even formalized a doctrine of hostile military intervention against states in gross violation of human rights. International power that is not intrinsically rooted in territory and claims to safeguarding the universal welfare of all individuals is a potent authority.

Transnational Organisations

In 1338, a diplomatic mission left Europe and embarked on a perilous journey across central Asia to Cathay, today northern China. The envoys' objective was to 'carry letters and presents' to the mighty Khan of the Tartars, the Mongol-Chinese emperor, so that they might strike a treaty, enter formal diplomatic relations, and build an embassy at the capital of Armalec. The diplomacy in question did not stem from a European state but from a transnational actor, the Church. Pope Benedict XII sent John of Marignolli to Cathay after the unfortunate 'martyrdom' of their last diplomatic mission, and thankfully John proved more capable or lucky, spending several years in Cathay and Manzi, southern China, acting as a legate to the Khan's court, building churches,

²¹⁵ "ICC Prosecutor to Open an Investigation in Libya," Office of the Prosecutor, International Criminal Court, March 2, 2011, accessed March 4, 2011, <http://www.icc-cpi.int/NR/exeres/3EEE2E2A-2618-4D66-8ECB-C95BECCC300C.htm>.

converting pagans to Christianity, and ministering to the faithful. The great Khan also maintained an embassy at Avignon, where Pope Benedict XII held his court, and in this way both political authorities kept diplomatic relations, even though the Church was not a state.²¹⁶

The Church was not the sole non-state authority in Europe at the time. Medieval international society was teeming with transnational organisations: chivalric orders such as the Knights Templar and Knights Hospitaller; merchant and craft guilds ranging from apothecaries to wheelwrights; and mendicant orders such as the Franciscans, Carmelites, Dominicans and Augustinians, all of which depended directly on the charity of the local population for their livelihood rather than the Church.

Formalized relations between states and transnational actors were not uncommon during the Middle Ages and are becoming increasingly less uncommon today. Bull defines transnational organisations as any ‘organisation which operates across international boundaries, sometimes on a global scale, which seeks as far as possible to disregard these boundaries, and which serves to establish links between different national societies, or section of these societies’.²¹⁷ In contemporary times, such actors fall into three broad categories. The first are NGOs such as Amnesty International, Greenpeace, Médecins Sans Frontières, Oxfam and the Red Cross, non-profit organisations that

²¹⁶ Henry Yule, ed., *Cathay and the Way Thither: Being a Collection of Medieval Notices on China* (London: Hakluyt Society, 1866; Cambridge: Cambridge University Press, 2009), 309–394. Citations refer to the Cambridge University Press edition.

²¹⁷ Bull, *The Anarchical Society*, 270.

perform important charity work and are also stakeholders in the human rights agenda. The second category is multinational corporations (MNCs) such as Exxon Mobil, Google, Wal-Mart, Ford and Bank of America, for-profit enterprises that maintain affiliates in at least one foreign country. The third category is illegal transnational organisations. Transnational terrorist organisations, such as al Qa'ida, are motivated principally by ideology but resort to terrorism and political violence to achieve their goals. International criminal organisations, such as South American drug cartels or organised crime in the Balkans, are profit-maximizing entities that resort to crime—often violent and sometimes horrific—to make their bottom line. As with globalisation and international organisations, the expansion of transnational organisations as global political actors has grown exponentially since Bull's time, perhaps beyond what he thought possible.

The Hagiography of NGOs

Margaret Mead once said: 'Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has'. NGOs have taken this advice to heart, and their significance in the world has risen dramatically over the decades. A hundred years ago there were 1,083 NGOs. Today there are over 40,000.²¹⁸ NGOs are legally constituted organisations that operate independently of government in a non-commercial

²¹⁸ Oliver P. Richmond, "The Dilemmas of Subcontracting the Liberal Peace," in *Subcontracting Peace: The Challenges of NGO Peacebuilding*, ed. Oliver P. Richmond and Henry F. Carey (Hampshire, UK: Ashgate Publishing, 2005), 20.

and non-violent way to proffer charity, such as sheltering the homeless, feeding the poor and teaching the young. Benevolence is not new and remains a staple of religious organisations' work around the world. However, NGOs have become the modern version of medieval ecclesiastical charities because they are key stakeholders in the human rights regime and willing partners to international organisations that seek to promulgate human rights as a source of political authority.²¹⁹ Consequently, NGOs have risen alongside international organisations as political actors since the end of World War II and especially after the Cold War. As *The Economist* recounts, 'the end of communism, the spread of democracy in poor countries, technological change and economic integration—globalisation in short—has created fertile soil for the rise of NGOs'.²²⁰ Today NGOs have inserted and asserted themselves as actors to be reckoned with in global politics.

The precise history of NGOs is nebulous. Some date the first NGO back to 1674 when the Rosicrucian Order, an educational fraternal organisation, was founded. Others believe the first NGO appeared in 1846 with the formation of the World Evangelical Alliance.²²¹ Regardless, the phrase

²¹⁹ Many NGOs are faith based, such as Catholic Relief Services, World Vision and Lutheran World Relief. While many operate much like secular NGOs, others engage in proselytizing and even tie aid to worship, which is controversial and forbidden under 'Conduct for the International Red Cross and Red Crescent Movement and NGOs Disaster Response Programs', which declares that 'aid will not be used to further a particular political or religious standpoint'. For more information, see: Elisabeth Ferris, "Faith-Based and Secular Humanitarian Organizations," *IRRC* 87, no. 858 (2005): 311-325.; Susan Dicklitch and Heather Rice, "The Mennonite Central Committee (MCC) and Faith-Based NGO Aid to Africa," *Development in Practice* 14, no. 5 (2004): 660-672.; Carlo Benedetti, "Islamic and Christian Inspired Relief NGOs: Between Tactical Collaboration and Strategic Diffidence?," *Journal of International Development* 18, no. 6 (2006): 849-859.

²²⁰ "The Non-Governmental Order," *The Economist*, December 11, 1999, 20.

²²¹ Werner J. Feld, et al., *International Organizations: A Comparative Approach* (Westport, CT: Praeger Security International, 1994), 25.

non-governmental organisation only came into fashion with the establishment of the UN in 1945, specifically under provisions in Article 71 of Chapter 10 of the UN Charter. This stipulation gives NGOs a consultative role within the UN, especially to the Economic and Social Council (ECOSOC), which codified the practice in 1950 by announcing eligibility standards and defining ‘international NGOs’ as ‘any international organisation that is not founded by an international treaty’.²²² ECOSOC emphasized that ‘a clear distinction is drawn in the charter of the UN between participation without vote in the deliberations of the council and the arrangements for consultation’.²²³ However, from the very beginning this distinction was blurred in practice as NGOs have obtained some participation rights that go beyond consultation. By the 1990s, many references appear in UN documents to NGOs being in ‘social partnership’ with governments.²²⁴ The twin births of the UN and modern NGOs linked their destinies.

²²² The Economic and Social Council of the United Nations, Resolution 288 (X), “The ECOSOC Statute for Non-Governmental Organisations,” February 27, 1950, <http://www.staff.city.ac.uk/p.willetts/NGOS/RES31-96.HTM>.

²²³ ECOSOC first consolidated the main aspects of the consultative arrangements for NGOs in a single text as Resolution 288B (X), (February 27, 1950). The text was subsequently readopted with revisions as Resolution 1296 (XLIV), (May 23, 1968), and then again as Resolution 1996/31, (July 25, 1996). The quoted text is identical in all three versions: Resolution 288B, par. 12; Resolution 1296, par. 12; and Resolution 1996/31, par. 18. See Footnote 3 in Peter Willetts, “From Consultative Arrangements to Partnership: The Changing Status of NGOs in Diplomacy At the UN,” *Global Governance* 6, no. 2 (2000): 191-212.

²²⁴ Section III of Agenda 21 was addressed to ‘moving towards real social partnership’ between ‘major groups’ and governments: see UN Doc. A/CONF. 151/26 (Vol. III), August 14, 1992, para. 23.4. Similarly, Chapter XV of the program of action of the International Conference on Population and Development was titled ‘Partnership with the Non-Governmental Sector’: see UN Doc. A/CONF. 171/13 and Add. I, October 18, 1994. Perhaps the strongest conference language about partnership with NGOs appears in the program of action of the World Summit for Social Development, in UN Doc. A/CONF. 166/9, April 19, 1995, particularly chap. 5. In addition, the Office of the UN High Commissioner for Refugees (UNHCR) has signed agreements with more than 240 NGOs to work with them as operational partners: see *UNHCR & NGOs: Directory of Non-Governmental Organisations* (Geneva: UNHCR, 1992). See Footnote 2, Willetts, “From Consultative Arrangements to Partnership.”

The universe of NGOs is diverse and defies a single description. NGOs function at all levels of human society, from a two-person non-profit organisation that helps find stray pets new homes in a small town to global NGOs such as Amnesty International, which has 2.8 million supporters in over 150 countries and territories and won the Nobel Peace Prize in 1977 for its work promoting human rights.²²⁵ NGOs also work on a wide spectrum of issues that touch nearly every aspect of the human condition, but regardless of the task at hand, they fall into one of two categories. Operational NGOs seek to accomplish good literally from the ground up, such as providing medical care to the world's most needy, as Nobel Peace Prize laureate Médecins Sans Frontières (MSF) does. Advocacy NGOs achieve good using a top-down strategy of activism to influence key decision-makers to enact change commensurate with the NGOs' objectives. The distinction between operational and advocacy organisations, however, is imperfect because a growing number of large NGOs engage in both activities.

Both categories of NGO derive their political authority from their moral authority or what some might term *soft power*, the ability to get what you want through attraction and co-option rather than coercion or payments. It stands in contrast to hard power, the archetypical example being war, which Clausewitz describes as 'an act of force to compel our enemy to do our will'.²²⁶ Writing at the finale of the Cold War, Joe Nye coined the term *soft power* to

²²⁵ "Amnesty International's Statute," Amnesty International, accessed September 30, 2010, <http://www.amnesty.org/en/who-we-are/accountability/statute>.

²²⁶ Clausewitz, *On War*, 75, 77.

prescribe how the United States might best wield its superpower status in a new unipolar world,²²⁷ but the concept in international relations is not new: It might quaintly describe the phenomenon known as diplomacy, and the power of persuasion can be found in texts dating back to the seventh century BCE in the writings of Lao Tzu, Chinese philosopher and Taoist.²²⁸ Nor is the notion without its academic critics.²²⁹ Despite its many flaws, soft power provides a convenient short hand to describe how NGOs gain authority in a neomedieval system through the perceived moral rectitude of their ideology (i.e., human rights) demonstrated through tangible good works and intangible goodwill. As Nye explains, ‘When our policies are seen as legitimate in the eyes of others, our soft power is enhanced’.²³⁰ Like religious orders during the Middle Ages, the righteousness of NGOs’ labour is causally linked to their legitimacy, power and political authority.²³¹

²²⁷ Joseph S. Nye, *Soft Power: The Means to Success in World Politics* (USA: PublicAffairs, 2004). Many of the ideas presented by Nye are also suggested by earlier theorists, such as: Steven Lukes, *Power: A Radical View*, 1st ed. (London: Steven Lukes, 1976).

²²⁸ Lao Tzu and James Legge, *Tao Te Ching* (Digireads.com, 2009).

²²⁹ There are myriad critiques of soft power. On its utility: Niall Ferguson, Josef Joffe, Robert Kagan, Ken Waltz, Mearscheimer vs. Joe Nye, Katzenstein, Janice Mattern, Jacques Hymans, Alexander Vuving, Jan Mellisen. On its power to compel: Mattern, Katzenstein, Duvall, Barnett vs Nye, Vuving. On how the relationship between structure and agency works: Hymans vs Nye. On whether soft balancing is occurring: Wohlforth & Brooks vs Walt et al. For an overview, see: Thomas Hartman, “Hard Questions for Soft Power” (paper presented at the International Studies Association Annual Convention, San Francisco, CA, 2008).

²³⁰ Nye, *Soft Power*, preface.

²³¹ This formulation serves as a general overview of how NGOs garner authority, but the quality of NGO legitimacy and accountability remains controversial. To address such concerns, the Humanitarian Accountability Partnership International (HAP International) was established in 2007 as the humanitarian sector’s first international self-regulatory body, working toward the promotion of humanitarian accountability. However, as with many self-regulated regimes, HAP’s efficacy is debatable, and a full investigation into this question is beyond the scope of this thesis. For more on this debate, see: Hugo Slim, “By What Authority? The Legitimacy and Accountability of Non-Governmental Organisations,” *The Journal of Humanitarian Assistance* 10 (January 2002); Jem Bendell, *Debating NGO Accountability: UN-NGLS Development Dossier* (United Nations: Geneva, 2006), 85-102; Jon Christensen, “Asking Do-Gooders to Prove They Do Good,” *New York Times*, January 3, 2004; Kumi Naidoo, “Civil Society Accountability: Who Guards the Guardians,” (Address at UN Headquarters, New York, April 3, 2003);

Building a Better World from the Ground Up

Operational NGOs aid fragile states, which lack either the capacity or will, to help their citizens through short-term humanitarian aid or long-term development assistance. Myriad NGOs at the local, state and regional levels work in building infrastructure to election monitoring to the protection of women's rights. As the UN secretary-general's 1998 report stated, 'In terms of net transfers, non-governmental organisations collectively constitute the second largest source of development assistance'.²³² Despite this multitude, a handful of major players with programs in multiple countries dominate the international NGO. One-quarter of the \$2.5 billion of United States government funding for relief and development aid in 2000 went to just four NGOs: CARE, Catholic Relief Services, Save the Children and World Vision.²³³ Although all of these large NGOs conduct programmes across multiple sectors in some of the world's most inhospitable places, they generally specialise in specific operational niches. CARE is expert in food delivery and logistics, MSF provides medical and primary healthcare, Oxfam specialises in water and sanitation and Save the Children concentrates on the unique needs of children. In addition to their size and knowledge set, they each facilitate broad networks of smaller NGOs and other civil society organisations working

and Gary Johns, "NGO Way to Go: Political Accountability of Non-Government Organizations in a Democratic Society," *IPA Backgrounder* 12, no. 3 (November 2000): 1-16.

²³² U.N. General Assembly, A/53/150, "Arrangements and Practices for the Interaction of Non-Governmental Organizations in All Activities of the United Nations System: Report of the Secretary-General," July 10, 1998, <http://www.un.org/documents/ga/docs/53/plenary/a53-170.htm>.

²³³ Abby Stoddard, "Humanitarian NGOs: Challenges and Trends," in *Humanitarian action and the 'global war on terror': a review of trends and issues*, HPG Report 14, ed. Joanna Macrae and Adele Harmer (London: Humanitarian Policy Group, 2003), 26.

in their niche areas, and in emergencies, these super NGOs often co-ordinate or lead smaller organisations in the field for both humanitarian and development operations.

Humanitarian NGOs are a primary implementing agency of, and at times the driving force behind, international humanitarian action, especially since the Cold War, as greater numbers of NGOs have ventured intrepidly into conflict zones, which were traditionally the preserve of the Red Cross. This is partly due to the humanitarian vacuum created by a seeming increase in global demand for humanitarian support in the 1990s coupled with developed states' failure to tackle many of the conflicts in the developing world. Although exact figures are lacking, it is estimated that donor countries channel about a quarter of their humanitarian spending through NGOs. Denmark channels 36 per cent of its humanitarian funding through (Danish) NGOs, France 40 per cent, and the United States around 60 per cent.²³⁴ Following the 2010 earthquake in Haiti that killed 200,000 people and left 1.2 million homeless, over one hundred NGOs from around the world flocked to Haiti's assistance, providing both supplies and rescuers, playing a vital role in the country's recovery.²³⁵ While humanitarian operations remedy immediate crisis, however, they do not address the underlying socioeconomic factors that may have led to

²³⁴ Judith Randel And Tony German, "Trends In The Financing Of Humanitarian Assistance," In *The New Humanitarianisms: A Review Of Trends In Global Humanitarian Action*, HPG Report 11, ed. Joanna Macrae (London: Humanitarian Policy Group, 2002).

²³⁵ For a list of international NGOs involved in Haiti's recovery from the 2010 earthquake, see: "Humanitarian response by non-governmental organizations to the 2010 Haiti earthquake," Wikipedia, accessed September 23, 2010, http://en.wikipedia.org/wiki/Humanitarian_response_by_non-governmental_organizations_to_the_2010_Haiti_earthquake.

the crisis in the first place. For that, long-term development operations are required.

Development operations seek to create and implement long-term programs to buttress weak states, protect human rights, and foster sustainable growth. As with humanitarian work, international and national development agencies increasingly rely on NGOs to design and deliver aid. The UN International Labour Organisation is working in Guatemala through a NGO called Habitat to introduce better technologies and training in poor communities so children can withdraw from work and attend school.²³⁶ In 2000, 44 per cent of the UN High Commissioner for Refugees's (UNHCR) budget was programmed through NGOs, which rely on NGOs as 'implementing partners'. Over the past decades the use of NGOs as implementing partners has grown exponentially, making NGOs major players in international development. From 1970 to 1985 total World Bank development aid disbursed through international NGOs increased ten-fold and over \$7.6 billion of aid was channelled to developing countries through NGOs. As of 2000, the World Bank estimated that 54 per cent of all approved projects involved NGOs to some degree and over 15 per cent of its total overseas development aid is disbursed directly to NGOs.²³⁷ This means that

²³⁶ "How IPEC Works with Non-Governmental Organizations," International Programme on the Elimination of Child Labour, International Labour Organization, accessed September 23, 2010, <http://www.ilo.org/ipcc/Partners/NGOs/lang-en/index.htm>.

²³⁷ World Bank, "Nongovernmental Organizations and Civil Society/Overview." See also: John Clark, "The Role of Non-Profit Organisations in Development: the Experience of the World Bank," (paper for the International Conference on the Non-Profit Sector and Development, Tsinghua University, Beijing, July 1999).

NGOs sometimes act not only as the primary representatives of the international community, but also increasingly provide public goods when states do not.

The degree of NGO utilisation in aid is even higher in the United States, which provides the most bilateral aid of any country. The Government Accountability Office (GAO), an investigative arm of Congress, conducted an inquiry into United States foreign aid disbursement and found that ‘USAID [the United States Agency for International Development] relies heavily on non-governmental organisations to deliver foreign assistance’; in fiscal year 2000 USAID directed about \$4 billion of its \$7.2 billion assistance funding to NGOs.²³⁸ This practise has increased so much that some in the United States government quip that USAID has become an ‘accounting shop’ for NGOs.²³⁹ A 2008 GAO report confirms this impression, finding that the focus of ‘USAID has shifted from conducting its own activities to managing acquisition and assistance instruments, which are awarded to and implemented by mainly non-governmental organisations’. The investigation discovered that from 2002 to 2007 USAID’s grants and contracts to NGOs doubled from about \$5 billion to about \$10 billion.²⁴⁰ NGOs are now an essential part of delivering not only development aid, but also development itself. It is not hyperbole to suggest that development depends on NGOs.

²³⁸ General Accounting Office, *Foreign Assistance: US AID Relies Heavily on Nongovernmental Organizations, but Better Data Needed to Evaluate Approaches* (Washington, DC: General Accounting Office, 2002).

²³⁹ Interview with DOD official, October 1, 2010.

²⁴⁰ General Accounting Office, *Foreign Assistance*.

Operational NGOs' abilities to deliver aid to almost any corner of the world have placed them on the front lines of modern conflicts. Many NGOs have operated in Iraq and Afghanistan or hostile post-conflict areas that UN peacekeeping missions occupy. This has made NGOs strategically significant transnational actors because aid provision is rapidly becoming a critical element of warfare: It makes individuals more secure, as called for by the human security paradigm, and addresses popular grievances that give rise to insurgencies, as counter-insurgency (COIN) theorists assert.²⁴¹ Regardless of the strategic lens, some of the most effective weapons do not fire bullets in modern warfare, and this has placed NGOs front and centre in modern military operations.²⁴² United States military experiences in Iraq and Afghanistan have resulted in the adoption of the COIN strategy by General David Petraeus, the creation of landmark military doctrine in field manuals 3-24 'Counterinsurgency' and 3-7 'Stability Operations',²⁴³ and the formation of provincial reconstruction teams (PRTs) to facilitate reconstruction in conflict zones. Beyond Iraq and Afghanistan, United States Africa Command (AFRICOM), the command responsible for all United States military operations in Africa, has sought to work with NGOs to promote development and regional stability. AFRICOM's commander, General Kip Ward, calls this

²⁴¹ On population-centric COIN, see: David Galula, *Counterinsurgency Warfare: Theory and Practice* (Westport, CT: Praeger Security International, 2006).; U.S. Army and U.S. Marine Corps, *FM 3-24/MCWP 3-33.5: Counterinsurgency* (Washington, DC: Headquarters, Department of the Army, 2006), Appendix D-6. Note, aid is also political and can make individuals less secure too.

²⁴² For more on this theme, see: Rupert Smith, *The Utility of Force: The Art of War in the Modern World* (London: Allen Lane, 2005).

²⁴³ U.S. Army and U.S. Marine Corps, *FM 3-24/MCWP 3-33.5*; U.S. Army, *FM 3-07: Stability Operations*, (Washington, DC: Headquarters, Department of the Army, 2008), 6-1.

strategy *active security*, which ties security to development and endeavours to prevent the conditions that could lead to future conflicts.²⁴⁴ NGOs would seem ideal partners in the so-called war on terror, since they often know the indigenous lay of the land better than the United States military, have decades' worth of operational know-how in these tough environments, are development experts and have access to places that may be denied to the military.

However, as independent transnational actors, NGOs have little reason to trade their legitimacy for service in the rank and file of United States military ambition. International NGOs, regardless of their background, cleave to three core values that are fundamentally neomedieval, as codified by the International Committee of the Red Cross.²⁴⁵ The first principle is neutrality: Aid will not be used to further a particular political or religious standpoint. The second is impartiality, meaning that aid is given regardless of race, creed or nationality and is based on need alone. The third is independence: NGOs shall not act as instruments of a government's foreign policy. Owing to this, NGOs have little desire to acquiesce to state pressure and protest what they see as the militarisation of humanitarian aid, which endangers NGO workers on the ground. Nancy Lindborg, president of Mercy Corps, a large international

²⁴⁴ William E. Ward and Thomas P. Galvin, "U.S. Africa Command and the Principle of Active Security," *Joint Force Quarterly* 51 (2008): 61-66.

²⁴⁵ "Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief," International Federation of Red Cross and Red Crescent Societies, accessed September 30, 2010, <http://www.ifrc.org/en/publications-and-reports/code-of-conduct/>; U.N. General Assembly, Resolution A/46/182, "Strengthening of the coordination of humanitarian emergency assistance of the United Nations," December 19, 1991, <http://www.un.org/documents/ga/res/46/a46r/182.htm>.

NGO that works in conflict zones, explains to Congress: ‘Increasingly, insurgents have been invading NGO compounds across Afghanistan in search of evidence of cooperation with PRTs and military units.... In Iraq, there have been a number of cases when local contractors who “collaborate” with Coalition Forces have been threatened and in some cases killed, and numerous reconstruction projects that have been attacked and destroyed by insurgents’.²⁴⁶

Owing to these concerns, NGOs are reluctant to join forces with states unless it serves their own interests. As Jim Bishop of Interaction, a large umbrella organisation for many NGOs, makes clear: ‘Humanitarian organisations may want to keep some distance between themselves and the United States military, especially in environments with potential for violent opposition to the United States’.²⁴⁷ That NGOs have the option to ‘distance themselves’ and choose who and when to give aid to, even if it happens to be to the enemies of a superpower such as the United States, demonstrates that NGOs do not inhabit sovereign space as conceived of by the Westphalian system. Instead, NGOs operate in what they and the UN call ‘humanitarian space’, which they jealously guard.²⁴⁸ This is essentially an overlapping ‘no-state sovereignty zone’, in which the NGOs remain faithful to their core principles of neutrality, impartiality and independence. That NGOs and the UN can

²⁴⁶ *Striking the Appropriate Balance: The Defense Department’s Expanding Role in Foreign Assistance: Hearing before the Committee on Foreign Affairs, House of Representatives*, 111th Cong. (March 13, 2009) (statement of Nancy Lindborg, President, Mercy Corps).

²⁴⁷ Interview with Jim Bishop, Vice President for Humanitarian Policy and Practice Interaction, June 29, 2007.

²⁴⁸ Vicky Tennant, et al., *Safeguarding Humanitarian Space: A Review of Key Challenges for UNHCR* (Geneva: Policy Development and Evaluation Service, 2010).

assert the concept of humanitarian space in the countries they work in is not a surprise, since those countries are already weak and sometime failed. But that they can successfully declare this space in the face of the United States shows that NGOs are relatively autonomous transnational actors and beyond the reach of state sovereignty. The United States even attempted to broker an agreement between its military and the NGO community that honours humanitarian space in conflict zones.²⁴⁹ The concept of humanitarian space is a driver of neomedievalism, as it establishes NGOs as an independent authority in the international system.

Saving the World from the Top Down

Just as operational NGOs are implementing partners of international development agencies, advocacy NGOs are implementing partners of the human rights regime. One observer describes their zeal as ‘religionless Christianity’ with an essentially Christian organisational culture yet a secular espousal of solidarity for universal rights.²⁵⁰ Advocacy NGOs typically derive their legitimacy by claiming to represent the interests of civil society in global politics, frequently invoking the mantra that they ‘give voice to the voiceless’, a pronouncement that is simultaneously compelling and impossible to prove.²⁵¹

²⁴⁹ “Guidelines for Relations Between U.S. Armed Forces and Non-Governmental Humanitarian Agencies in Hostile or Potentially Hostile Environments,” United States Institute of Peace, accessed October 1, 2010, http://www.usip.org/files/resources/guidelines_pamphlet.pdf.

²⁵⁰ Stephen Hopgood, *Keepers of the Flame: Understanding Amnesty International* (Cornell: Cornell University Press, 2006), 62.

²⁵¹ Examples of this attitude are numerous. A random sample includes: Caroline Szyber, *Giving Voice to the Voiceless: A Field Study From India About Capacity Building Towards Women in Panchayats as an Instrument for Empowerment*, accessed July 4, 2008, http://www.quotaproject.org/other/Giving_voice_to_the_voiceless.pdf; Georg Gugelberger and

Nimbly wielding soft power, they seek to persuade key decision makers and relevant populations to adopt policies, enact domestic laws, establish international norms and pass supranational laws that further the NGOs' goals. Advocacy NGOs have become so adept at promoting their causes that they are no longer merely enabling partners for the human rights agenda but drivers of it, giving them significant political authority.

The soft power of advocacy NGOs is founded upon a clear vision of the difference between what ought to be versus what is, which the NGOs promise to bridge in the name of justice. NGOs use this formula to persuade or co-opt others to join their cause. Amnesty International's vision 'is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments'.²⁵² From this utopian starting point, it is fairly easy to elucidate the many deficiencies in the world today, which justify Amnesty International's myriad campaigns, ranging from releasing political prisoners to reducing the small arms trade. Advocacy can be conducted through a variety of means, including lobbying, public statements, publications, press articles and editorials, public demonstrations and street theatre, petitions and documentary film. Many large NGOs offer training on activist campaigning, media relations, lobbying techniques and coalition building. Amnesty International even

Michael Kearney, "Voices for the Voiceless: Testimonial Literature in Latin America," *Latin American Perspectives* 18, no. 3 (1991): 3-14.; Pippa Norris, *Giving Voice to the Voiceless: Good Governance, Human Development & Mass Communications* (New York: United Nations Development Program, 2002). http://hdr.undp.org/en/reports/global/hdr2002/papers/Norris-Zinnbauer_2002.pdf; For a critique of this claim, see: Slim, "By What Authority?"

²⁵² "Amnesty International's Statute," Amnesty International.

produces internal training videos on how to lobby the United States congress.²⁵³

Other NGOs employ more aggressive guerrilla-activism tactics, as in the so-called ‘Battle in Seattle’, a massive protest against the World Trade Organisation (WTO) ministerial conference of 1999. The scale of the demonstrations—even the lowest estimates put the crowd at over 40,000—dwarfed all expectations, collapsed the WTO talks, garnered worldwide media attention on the issues the protestors sought to expose and caused future meetings to be held in remote locations, such as Doha in 2001.²⁵⁴ The Ruckus Society is an NGO that specializes in training activists how to wage non-violent ‘direct action’ campaigns in military-like boot camps in the woods. Experience and books such as *The Anarchist Cookbook* and *The Monkey Wrench Gang* inform their tactics.²⁵⁵ The Ruckus Society even produces its own ‘doctrine’ and field manuals for direct action.²⁵⁶ Greenpeace also maintains elite clandestine teams in Europe and North America that function analogously to non-violent military Special Forces teams. They are well equipped and trained in small-unit tactics, advanced climbing, small boat operations and limited surveillance and counter-surveillance techniques. Other groups such as Animal

²⁵³ Based on personal experience as a volunteer leader in Amnesty International, 2002–2004.

²⁵⁴ For more, see: Paul de Armond, “Netwar in the Emerald City: WTO Protest Strategy and Tactics,” in *Networks and Netwars: The Future of Terror, Crime, and Militancy*, ed. John Arquilla and David Ronfeldt (Santa Monica, CA: RAND, 2001), 201–235.; Janet Thomas, *The Battle in Seattle: The Story Behind and Beyond the WTO Demonstrations* (Fulcrum Publishing, 2000). For a dramatized version of these events, see: *Battle in Seattle*, directed by Stuart Townsend (Redwood Palms Pictures, 2007), DVD.

²⁵⁵ William Powell, *The Anarchist Cookbook* (New York: Lyle Stuart, 1971).; Edward Abbey, *The Monkey Wrench Gang* (New York: Avon, 1976).

²⁵⁶ “Direct Action Manuals & Checklists,” The Ruckus Society, accessed October 2, 2010, <http://www.ruckus.org/section.php?id=82>.

Liberation Front, supported by People for the Ethical Treatment of Animals, and Earth Liberation Front are even more aggressive, covertly engaging in criminal activities such as arson. This has lead the Federal Bureau of Investigation (FBI) to label these groups ‘eco-terrorists’, eco-terrorism being defined as the ‘use or threatened use of violence of a criminal nature against people or property by an environmentally oriented, subnational group for environmental-political reasons, or aimed at an audience beyond the target, often of a symbolic nature’.²⁵⁷ It is unclear how these non-violent activist groups threaten the security of the world’s greatest military superpower, but it is significant that the FBI is willing to use the word *terrorist* to describe them.²⁵⁸

Advocacy NGOs have become effective and independent political actors, incredibly skilled at leveraging modern communications technologies to mobilize popular support and build multi-continent coalitions to generate social movements for change. In 1995 a network of advocacy NGOs formed the Coalition for an International Criminal Court, which was significant in galvanizing international momentum for the court. The coalition now numbers over 2,500 NGOs from 150 countries, and continues to push for ever more expansive instruments of supranational law to enforce justice in accordance

²⁵⁷ *The Threat of Eco-Terrorism: Hearing before the House Committee on Natural Resources, Subcommittee on Forests and Forest Health*, 107th Cong. (February 2002) (testimony of James F. Jarboe, Counterterrorism Division, FBI).

²⁵⁸ For more regarding the debate on ‘activism’ versus ‘terrorism’, see: Rebecca K. Smith, “Ecoterrorism?: A Critical Analysis of the Vilification of Radical Environmental Activists as Terrorists,” *Environmental Law* 38, no. 2 (2008): 537-576; Steven Best and Anthony J. Nocella, Jr., ed., *Terrorists Or Freedom Fighters?: Reflections on the Liberation of Animals* (New York: Lantern Books, 2004); Steve Vanderheiden, “Eco-Terrorism Or Justified Resistance? Radical Environmentalism and the ‘War on Terror’,” *Politics & Society* 33, no. 3 (2005): 425-447; Don Liddick, *Eco-Terrorism: Radical Environmental and Animal Liberation Movements* (Westport, CT: Praeger Publishers, 2006).

with human rights norms.²⁵⁹ Another example includes Jubilee 2000, an NGO coalition in over forty countries that called for cancellation of third-world debt by the year 2000. The International Campaign to Ban Landmines is a global network in over ninety countries that works to rid the world of anti-personnel landmines and cluster munitions. Its advocacy was important in bringing about the Mine Ban Treaty, for which it was awarded the 1997 Nobel Peace Prize. The power of NGO coalitions to effect change has increased substantially since the end of the Cold War.

Many NGOs claim to act as a 'global conscience', representing broad public interests beyond the purview of individual states and serving as watchdogs and whistle-blowers of states that fail to protect human rights, reinforcing the emerging social contract between the UN and individuals. Amnesty International, Human Rights Watch, International Crisis Group and others conduct extensive investigations of alleged human rights abuses; if any are discovered, the NGOs attempt to pillory the offending nation in a global 'name and shame' campaign designed to besmirch the reputation and legitimacy of alleged perpetrators, reminiscent of medieval popes who wielded the power of excommunication over kings, or clergy who censured princes to undermine the legitimacy of temporal authorities that disagreed with ecclesiastical positions. The Save Darfur Coalition has built a network of 180 NGOs seeking to end the Sudanese government's ongoing genocide in Darfur.

²⁵⁹ Powell, *The Anarchist Cookbook*.; Abbey, *The Monkey Wrench Gang*.; "Home Page," Coalition for the International Criminal Court, accessed October 1, 2010, <http://www.iccnw.org/?mod=home>.

They have tirelessly researched and exposed alleged human rights violations by the Sudanese military and their proxy, the *janjaweed*, non-military gunmen on horseback. In 2007, the organisation ran a number of unflattering full-page ads in the *New York Times* and other influential newspapers that personally demonized top Sudanese officials for their alleged complicity in the Darfur genocide. In retaliation the Sudanese government impeded efforts by operational NGOs on the ground, such as the International Rescue Committee, by miring their application for visas and travel permits in red tape.²⁶⁰ This effectively put a wedge between advocacy and operational NGOs over how best to proceed in Darfur, but also demonstrates the potency of ‘naming and shaming’ campaigns.

Ultimately, advocacy NGOs desire stronger supranational laws capable of breaking down the barriers of sovereignty, which they believe shield human rights-abusing regimes such as Sudan’s. To this end NGOs have long advocated for the Rome Statutes, the ICC and other ad hoc international or internationalized courts, as well as universal jurisdiction for human rights issues. In addition to waging global advocacy campaigns, as the Coalition for an International Criminal Court does, some NGOs, such as Amnesty International, offer to help governments ‘review and amend their laws’ to ensure that the ‘tools for justice’ are in place. Moreover, in a veiled threat, the organisation warns that ‘when national authorities fail to respond genuinely to

²⁶⁰ Stephanie Strom and Lydia Polgreen, “Advocacy Group’s Publicity Campaign on Darfur Angers Relief Organizations,” *The New York Times*, June 2, 2007.

crimes, Amnesty International will campaign for international justice solutions to ensure that there is no impunity'.²⁶¹ Such justice solutions might include a military intervention under R2P; Amnesty International is not a pacifist organisation.²⁶²

Advocacy NGOs seek to expand the frontiers of supranational law by acting as norm entrepreneurs, promoting concepts of justice that eventually become law.²⁶³ This can be seen as reversing the way it is understood that norms have been created in the past: Though some theorists argue persuasively that norms and power cannot easily be disaggregated, the literature on transnationalism generally assumes norms exist as an exogenous force on states,²⁶⁴ derive from social necessity for cooperation²⁶⁵ and are a cause rather than a product of NGO activity.²⁶⁶ Even NGOs themselves typically promote norms as morally monolithic and de facto definitive, harkening back to the presumed natural law behind human rights and also conveniently overlooking the frequent contentions among themselves regarding the specificities of the

²⁶¹ "Campaign for International Justice," Amnesty International, accessed September 30, 2010, <http://www.amnesty.org/en/international-justice/background>.

²⁶² Although a strong supporter of R2P, Amnesty International officially has a no-position policy regarding humanitarian intervention, neither supporting it nor ruling it out. Other advocacy NGOs, such as Human Rights Watch, do support humanitarian interventions. See: Ken Roth, "War in Iraq: Not a Humanitarian Intervention," in *Human Rights Watch World Report 2004: Human Rights and Armed Conflict* (USA: Human Rights Watch, 2004), 13-35.

²⁶³ Cass R. Sunstein, *The Second Bill of Rights: FDR's Unfinished Revolution and Why We Need it More Than Ever* (USA: Basic Books, 2004); Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998): 887-917.

²⁶⁴ Thomas Risse, et al., ed., *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999); Rosemary Foot, *Rights Beyond Borders: The Global Community and the Struggle Over Human Rights in China* (Oxford: Oxford University Press, 2000).

²⁶⁵ Robert Axelrod, "An Evolutionary Approach to Norms," *The American Political Science Review* 80, no. 4 (1986): 1095-1111.

²⁶⁶ Among theorists who argue that norms, power, and self-interest cannot be disaggregated, see: James F. Keeley, "Toward a Foucauldian Analysis of International Regimes," *International Organization* 44, no. 1 (1990): 83-105.; Gary Goertz and Paul F. Diehl, "Toward a Theory of International Norms: Some Conceptual and Measurement Issues," *Journal of Conflict Resolution* 36, no. 4 (1992): 634-664.

norm.²⁶⁷ Nevertheless, constructing new norms is an essential component of NGOs' political authority, since, when successful, the new norms reify into international behaviour of their choosing.

According to Martha Finnemore and Kathryn Sikkink, international norms are invented, not discovered, and changes in norms occur in a three-stage 'life cycle'. The first stage is 'norm emergence', when norm entrepreneurs such as NGOs attempt to persuade a critical mass of norm leaders—states, intergovernmental organisations, other transnational actors—to adopt the new norm. If successful, this leads to the second stage, which involves gaining increasingly broad acceptance for the norm through a combination of pressure for conformity, wish to enhance international legitimisation, and desire of international leaders to enhance their image. Finnemore and Sikkink term this phenomenon a 'norm cascade'. Once a 'tipping point' is reached, the third stage, 'internalisation', transpires as the norm is taken for granted, codified into law and no longer seen as a subject for public debate.²⁶⁸ This pattern of 'norming' is also independently found in the literature of United States legal scholars, quantitative research by sociology's institutionalists or 'world polity' theorists, epistemologists of science such as Kuhn who considered it a

²⁶⁷ Joe Bandy and Jackie Smith, ed., *Coalitions Across Borders: Transnational Protest and the Neoliberal Order* (Lanham, MD: Rowman & Littlefield Publishers, 2004); Shareen Hertel, *Unexpected Power: Conflict and Change Among Transnational Activists* (Ithaca, NY: Cornell University Press, 2006).

²⁶⁸ Finnemore and Sikkink, "International Norm Dynamics and Political Change."

‘paradigm shift’, social movement theorists such as Snow who refer to it as ‘framing’ and various thinkers in international relations theory.²⁶⁹

NGOs’ norm entrepreneurship lends power and legitimacy to themselves as transnational actors. Today the norm of not harming non-combatants or medical personnel in war is fully internalized: It is codified in the Geneva Conventions and the Rome Statutes; incorporated into the basic training of modern militaries; and violations of this norm, such as acts of terrorism, elicit strong condemnation from the international community. However, this norm was not always taken for granted, and its originator can be traced to a single man: Henry Dunant. A Genovese Swiss banker by profession, in June 1859 he was travelling to Italy to meet with French emperor Napoléon III to discuss business in Algeria, at that time occupied by France. When he arrived at the small town of Solferino on the evening of June 24, he witnessed the horrific aftermath of the Battle of Solferino, an engagement in the Austro-Sardinian War. In a single day, nearly 40,000 soldiers on both sides were killed or left to die of their wounds on the field. Shocked by the bloodshed and the appalling lack of medical care for the wounded,

²⁶⁹ For example, see: Cass R. Sunstein, “Behavioral Analysis of Law,” *The University of Chicago Law Review* 64, no. 4 (1997): 1175-1195; John W. Meyer and Michael T. Hannan, *National Development and the World System: Educational, Economic, and Political Change* (Chicago: University of Chicago Press, 1979); Albert Bergesen, *Studies of the Modern World-System* (New York: Academic Press, 1980); Martha Finnemore, “International Organizations as Teachers of Norms: The United Nations Educational, Scientific, and Cultural Organization and Science Policy,” *International Organization* 47, no. 4 (1993): 565-597; Thomas S. Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1996); David A. Snow, et al., “Frame Alignment Processes, Micromobilization, and Movement Participation,” *American Sociological Review* 51, no. 4 (1986): 464-481.; Lisa McIntosh Sundstrom, “Foreign Assistance, International Norms, and NGO Development: Lessons From the Russian Campaign,” *International Organization* 59, no. 2 (2005): 419-449; and Ole Elgström, “Norm Negotiations. The Construction of New Norms Regarding Gender and Development in EU Foreign Aid Policy,” *Journal of European Public Policy* 7, no. 3 (2000): 457-476.

Dunant deserted his business trip and for several days devoted himself to helping treat the wounded. Upon his return to Geneva, he captured his vivid memories in a book titled *A Memory of Solferino* and sent copies to leading political and military figures in Europe. Later, he advocated the formation of national voluntary relief organisations to help nurse soldiers wounded in war, and also called for the development of international treaties to guarantee the neutrality and protection of medics and the wounded on the battlefield.

To help socialize this emerging norm, Dunant and four leading figures in Geneva founded the Committee of the Five in 1863, which eventually became the International Committee of the Red Cross (ICRC).²⁷⁰ Its purpose was to garner support for the norm and it organised an international conference about the norm's possible implementation, which was attended by delegates from Baden, Bavaria, France, Britain, Hanover, Hesse, Italy, the Netherlands, Austria, Prussia, Russia, Saxony, Sweden and Spain. The conference was a success and interest in its ideas rapidly gained momentum—a 'norm cascade'. One year later, the Swiss government invited the governments of all European countries, as well as the United States, Brazil and Mexico, to attend an official diplomatic conference on the norm, and on August 22, 1864, the conference adopted the first Geneva Convention "for the Amelioration of the Condition of the Wounded in Armies in the Field", thus internalizing the

²⁷⁰ The five original members of this committee were Henry Dunant, Gustave Moynier, lawyer and chairman of the Geneva Society for Public Welfare, physician Louis Appia, who had significant experience working as a field surgeon, Appia's friend and colleague Théodore Maunoir, from the Geneva Hygiene and Health Commission, and Guillaume-Henri Dufour, a Swiss Army general of renown. See: Caroline Moorehead, *Dunant's Dream: War, Switzerland and the History of the Red Cross* (London: HarperCollins, 1998).

norm. In 1901 Dunant received the first Nobel Peace Prize together with Frédéric Passy, a leading international pacifist. In five years, Dunant reified the norm of protecting non-combatants, injured and medical personnel on the battlefield through a three-stage process, creating a transnational actor, the ICRC, and changing how modern wars are waged.

An anecdote from the floors of the negotiation room where the Rome Statutes were signed in 1998 offers a demonstration of just how far NGOs have advanced as political actors in international society. Patricia McNerney served as general counsel to the United States Senate Committee on Foreign Relations and was privy to the ‘sausage making’ of the treaty, as Otto von Bismarck might describe it. There she was surprised to find that instead of dealing with state delegates and ambassadors, some of the poorer countries permitted NGOs to represent them instead, and these organisations often advocated for their own agendas rather than one consistent with the interests of the country. As McNerney describes what she saw, ‘In Rome, I witnessed one instance in which an NGO was accredited by a small nation to sit in the nation’s chair and speak on behalf of that country. Rather than strengthening domestic institutions, such negotiations stretch budgets of small nations and inevitably lead to new and costly international institutions located in distant cities’.²⁷¹ NGOs have rendered political authority ambiguous, whether through the ‘humanitarian space’ of organisational NGOs that can disregard state

²⁷¹ McNerney, “International Criminal Court,” 182.

sovereignty or the ‘norm entrepreneurship’ of advocacy NGOs that precipitates supranational laws.

MNCs: Modern Marco Polos

Over \$3 trillion flows across national borders each day in today’s globalised economy—nearly triple the world’s GDP a century ago.²⁷² This incredible economic growth is propelled by MNCs, which are private, for-profit organisations with commercial operations and subsidiaries in two or more countries. There are many labels for these firms—transnational corporations (TNCs), multinational enterprises, global corporations—but regardless of their appellation, they are engines in a world financial system that binds together the economic fates of nations and has created a global economy so strong that no government, even those with the most powerful economies, can withstand sustained speculation against its currency, imposing significant constraints on national economic policies. This dynamic has given MNCs considerable power within international relations, making them, like NGOs, political actors in their own right.

The precise origins of MNCs are difficult to pinpoint because the categorical definition has evolved over the centuries. One of the earliest progenitors of modern MNCs are the East Indian companies in the early 17th century, such as the Dutch East Indian Company, English (later British) East

²⁷² On trade flows, see: Committee on Payment and Settlement Systems, *Progress in Reducing Foreign Exchange Settlement Risk* (Bank for International Settlements, 2008), forward. On the history of world GDP, see: J. Bradford Delong, “Estimating World GDP, One Million BC–Present,” May 24, 1998, http://econ161.berkeley.edu/TCEH/1998_Draft/World_GDP/Estimating_World_GDP.html.

Indian Company, French East Indian Company, Danish East Indian Company, Portuguese East Indian Company, and the Swedish East Indian Company. Stockholders rather than kings owned these large firms, which were chartered to extract the rents of colonialism and capitalize on the global trade emerging during the Age of Discovery.

Although each company was headquartered at its home country, the firms were expeditionary in nature and maintained vast arrays of offices and operations on nearly every continent. Dutch East Indian Company, also known as Vereenigde Oost-Indische Compagnie (VOC), established trading posts in Persia (now Iran), Bengal (now Bangladesh, but then part of India), Malacca (Melaka, now in Malaysia), Siam (now Thailand), mainland China (Canton), Formosa (now Taiwan) and the Malabar Coast and Coromandel Coast in India. Between 1602 and 1796 the VOC sent almost a million Europeans abroad on 4,785 ships, netting more than 2.5 million tons of Asian trade goods.²⁷³ In some cases the companies even administered colonies on behalf of an imperial power, as the British East Indian Company did for Great Britain in India, the crown jewel of British colonies, in the eighteenth and nineteenth centuries. As Edmund Burke, himself a former East India Company shareholder and diplomat, described it, “The East India Company did not seem to be merely a Company formed for the extension of British

²⁷³ Maarten W. Van Boven, *Towards A New Age of Partnership (TANAP): An Ambitious World Heritage Project*, (Paris: UNESCO Memory of the World, 2002) VOC Archives Appendix 2, 14.

commerce, but in reality a delegation of the whole power and sovereignty of this kingdom sent into the East'.²⁷⁴

The East India companies defended their overseas investments with might that rivalled states, including the capacity to raise armies and navies, build forts, wage war, negotiate treaties, coin money, establish colonies and even fly their own flag.²⁷⁵ At its peak in 1669, the VOC was the richest private firm the world had ever seen, with over 150 merchant ships, 40 warships, 600 canons, 50,000 employees including a private army of 10,000 soldiers and a dividend payment of 40 per cent on the original investment.²⁷⁶ The British East Indian Company colonized India, conquering through annexation and direct rule of indigenous states, often by force, or through treaties or subsidiary alliances, in which Indian rulers acknowledged the company's hegemony in return for limited internal autonomy.²⁷⁷ By 1765, it employed an army of 9,000 sepoys, or Indian soldiers, a number that swelled to 100,000 by 1782.²⁷⁸ The companies also favoured mercenaries, especially Swiss and German, and between 1715 and 1719 the British East Company hired 5,000 European and

²⁷⁴ David P. Fidler and Jennifer M. Welsh, *Empire and Community: Edmund Burke's Writings and Speeches on International Relations* (Boulder, CO: Westview Press, 1999), 210.

²⁷⁵ Holden Furber, *Rival Empires of Trade in the Orient, 1600-1800*, 2 Vols (Minneapolis: University of Minnesota Press, 1976), 91; Thomson, *Mercenaries, Pirates, and Sovereigns*, 35; Glenn J. Ames, *The Globe Encompassed: The Age of European Discovery, 1500-1700* (USA: Prentice Hall, 2008), 102-103.

²⁷⁶ Corey Sandler, *Henry Hudson: Dreams and Obsession: The Tragic Legacy of the New World's Least Understood Explorer* (New York: Citadel Press Books, 2007), 143.

²⁷⁷ Judith M. Brown, *Modern India: The Origins of an Asian Democracy* (Oxford: Oxford University Press, 1994), 67.

²⁷⁸ Geoffrey Parker, *The Military Revolution: Military Innovation and the Rise of the West, 1500-1800* (Cambridge: Cambridge University Press, 1988), 134-135.

20,000 Indian mercenaries to retake its fort at Calcutta.²⁷⁹ The companies were essentially merchant states.

Like megacorporations today, the considerable wealth and influence of the larger East Indian Companies gave them political power at home. They had the power to set and manipulate European markets by stocking up on goods and then holding back sales to drive up prices, creating artificial monopolies. Amsterdam merchants in the seventeenth century were particularly skilled in these practices, establishing monopolies not only in spices from the Far East, but also in Swedish copper, whale products, Italian silks, sugar, perfume ingredients and saltpetre (an ingredient of gunpowder). Some Dutch merchants had warehouses so large that they could hold sufficient grain to feed the entire country for ten to twelve years.²⁸⁰ The VOC and other companies used this market power not only to maximise profit, but to destroy foreign competition and influence politics by suddenly flooding the European market with goods, bankrupting rivals and statesmen opposed to their politics.

In addition to having overseas might and domestic market power, the companies were omnipresent fixtures in European life, from the tea stocked in every cupboard to the thousands of people and subsidiary industries that depended on them for their livelihoods. To secure their political interests the British East Indian Company developed a potent lobby in the English

²⁷⁹ Ibid, 85-87, 132, and 143; Furber, *Rival Empires of Trade in the Orient*, 150.

²⁸⁰ James Fulcher, *Capitalism: A Very Short Introduction* (Oxford: Oxford University Press, 2004), 4.

parliament, which also had a vested yet uneasy relationship with the company. In 1694 the lobby persuaded the parliament to pass a deregulation act permitting tradesmen to establish private trading firms in India, which was largely managed de facto by the company. The lobby continued to shape parliamentary politics to favour the company's trade monopoly, and by 1720, 15 per cent of all British imports originated from India, almost all passing through the company. Ultimately, the company became the indispensable partner to the crown, ruling colonies in the crown's name yet for the company's primary benefit. For centuries, East Indian companies were political actors on the world stage, and firms like the VOC and the British East Indian Company were more significant to global affairs than many European states.

Today's MNCs share many characteristics with the East Indian companies mixed with some neomedieval features. MNCs also are large expeditionary corporations with offices and operations all over the world, and are political actors in domestic and international politics. Unlike these earlier companies, MNCs cannot yet wage war, although this may be changing (see Chapter 3). MNCs are neomedieval in that they are not necessarily loyal to a single country in the sense that the VOC and British East Indian Company were vested in the Netherlands and Great Britain, respectively. MNCs' foremost allegiance is to their shareholders, who may hail from anywhere in the world, and their chief concern is profit rather than king and country.

MNCs feel no obligation to nationalism; they are increasingly reincorporating outside their home country to evade taxes in low-tax states like the Isle of Man, British Virgin Islands, and Liechtenstein, which maximises shareholder earnings as it garners the wrath of their countries of origin. A GAO report found that in 2007, eighty-three of the 100 largest publicly traded United States companies, including Citigroup, PepsiCo, and General Motors, had subsidiaries in multiple tax havens. Worse, from the United States perspective, some of these firms, such as Morgan Stanley, Citigroup and Bank of America, received federal bailout money in 2008 and 2009, which amounted to \$700 billion, outraging members of Congress who demanded that the government ‘shut down these tax dodgers’.²⁸¹ Tellingly, this has not happened.

As the globalised economy has grown, so have MNCs. In 1960 they numbered 3,500 with an aggregate stock worth \$68 billion. By 2000 there were more than 64,000 MNCs worth \$7.1 trillion.²⁸² When MNCs expand into other countries it is called foreign direct investment (FDI); today 866,000 foreign affiliates serve MNCs in every sector and corner of the global economy. Governments have aided this expansion by actively seeking FDI, liberalizing markets, lowering corporate taxes, creating special economic zones and off-shore finance centres, relaxing labour and environmental standards, reducing restrictions on the repatriation of profits and deregulating ownership by non-

²⁸¹ *International Taxation: Large US Corporations and Federal Contractors With Subsidiaries in Jurisdictions Listed as Tax Havens Or Financial Privacy Jurisdictions* (Washington, DC: Government Accountability Office, 2008).; Donmoyer, “83 Per cent of Companies Had Tax-Haven Units.”

²⁸² UNCTAD, *Transnational Corporations and World Development* (London: International Thompson Business Press, 1996), ix, 4.; United Nations Conference on Trade, *World Investment Report 1999: Foreign Direct Investment & the Challenge of Development* (PA: Bernan Press, 1999).

resident investors. As economist Milton Friedman says, ‘it is possible to “produce a product anywhere, using resources from anywhere, by a company located anywhere, to be sold anywhere’.²⁸³ MNCs account for between 25 and 33 per cent of world output, 70 per cent of world trade, and 80 per cent of international investment.²⁸⁴ The fifty largest MNCs each have annual sales revenue greater than the gross national product (GNP) of 142 UN member states of the, and firms such as Microsoft, General Electric, Royal Dutch Shell and JP Morgan Chase certainly have more clout in global politics than countries such as Togo, Belize, Cape Verde or Laos. Chief executive officers (CEOs) of MNCs even participate in summit-like meetings with heads of state to discuss international politics, as at the World Economic Forum in Davos, Switzerland.

States that wish to benefit from the riches of globalisation cannot afford to ignore MNCs because they are the gateway to global markets and control the location and distribution of economic and technological capital. Extractive-industry MNCs such as ExxonMobil, British Petroleum and Shell control the means of access to most of the world’s oil supply as well as the refining of crude oil. Financial-services MNCs such as Goldman Sachs, Bank of America and Citigroup are the lubrication of the global economy, as they guarantee loans to businesses and governments, invest billions into venture

²⁸³ Milton Friedman, “Public Schools: Make Them Private,” *Education Economics* 5, no. 3 (1997): 341-344.

²⁸⁴ Peter Willetts, “Transnational Actors and International Organizations in Global Politics,” in *The Globalization of World Politics. An Introduction to International Relations*, ed. John Baylis and Steve Smith (Oxford: Oxford University Press, 2001), 356–383; McGrew, “Globalization and Global Politics,” 21, 23.

capital, offer insurance for every conceivable thing and engage in international currency exchange and trade. Industrial-sector MNCs such as Sony, Ford and Coca-Cola manufacture goods and create jobs that enrich nations and please politicians. Service-industry MNCs such as Wal-Mart, McDonalds and AT&T sell the goods and provide the services that are the face of globalisation, and frequently the target of anti-globalisation protestors.²⁸⁵

The rise of the globalised economy and MNCs has profoundly affected the viability of the Westphalian system. It is no longer possible to regard any one country as having its own separate economy, unless it chooses to live in total isolation as North Korea has, although its impoverishment is not due to poor international trade policy alone. Moreover, countries can no longer control financial flows across their borders, reducing their ability to manage their own currency and foreign trade. The currency crisis in the 1980s and 1990s of the dollar, pound, French franc and yen demonstrate that even the strongest national economies are helpless against transnational banks and other currency speculators. Dependency theorists claim that MNCs and their subsidiaries exploit weak states for profit with scant regard for the welfare of people or the development of the state,²⁸⁶ challenging the Westphalian orthodoxy, as Gilpin aptly describes:

²⁸⁵ Camilla Webster, "The Davos Buzz," *Forbes*, January 22, 2008.

²⁸⁶ For more on dependency theory and MNCs, see: Jeffrey Pfeffer and Gerald Salancik, *The External Control of Organizations: A Resource Dependence Perspective* (Stanford: Stanford University Press, 2003); Brian R. Farmer, *The Question of Dependency and Economic Development: A Quantitative Analysis* (Lanham, MD: Lexington Books, 1999); Volker Bornschier, et al., "Cross-National Evidence of the Effects of Foreign Investment and Aid on Economic Growth and Inequality: A Survey of Findings and a Reanalysis," *American Journal of Sociology* 84, no. 3 (1978): 651-683.

[N]o aspect of the political economy has generated more controversy than the global expansion of multinational corporations. Some consider these powerful corporations to be a boon to mankind, superseding the state, diffusing technology and economic growth to developing countries, and interlocking national economies into an expanding and beneficial interdependence. Other view them as imperialistic predators, exploiting all for the sake of the corporate few while creating a web of political dependence and economic underdevelopment.²⁸⁷

Authority, Inc.

According to the Westphalian worldview, MNCs—like all transnational actors—are subordinate to states. Only states possess a legal personality in international law, with specific rights, protections, privileges, responsibilities and liabilities, and as such they are responsible for sub-state actors such as MNCs, which in turn derive their entire legal personality from the state. Companies are incorporated in a single national jurisdiction, and their entire legal existence and all associated rights and duties stem from this fact. As Claire Cutler comments, following Westphalia the ‘entire edifice of modern international law came to be crafted on the foundation of positive acts of sovereign consent, evidenced explicitly in treaty law and implicitly in customary international law’.²⁸⁸

²⁸⁷ Robert Gilpin, *The Political Economy of International Relations* (Princeton: Princeton University Press, 1987), 231.

²⁸⁸ A. Claire Cutler, “Critical Reflections on the Westphalian Assumptions of International Law and Organization: A Crisis of Legitimacy,” *Review of International Studies* 27, no. 2 (2001): 135. For critiques of the Westphalian model in relationship to MNCs, see also: Alex Wawryk, “Regulating Transnational Corporations Through Corporate Codes of Conduct,” in *Transnational Corporations and Human Rights*, ed. Scott Pegg and George Frynas (New York: Palgrave MacMillan, 2003), 53-78; Ruggie, “Reconstituting the Global Public Domain—Issues, Actors, and Practices.”; Stephen J. Kobrin, “Private Political Authority and Public Responsibility: Transnational Politics, Transnational Firms and Human Rights,” *Business Ethics Quarterly* 19, no. 3 (2009): 349–374.

Accordingly, MNCs and other transnational actors are not party to international relations except indirectly through association with their state. Treaties are signed only by states and subsequent international law only imposes obligations on states and not on non-state actors. States then codify these legal norms through domestic laws.²⁸⁹ This is reflected in the draft of the UN Code of Conduct for Transnational Corporations, which calls for MNCs to ‘respect the national sovereignty of the countries in which they operate’ and notes that an ‘entity of a transnational corporation is subject to the laws, regulations and established administrative practices of the country in which it operates’.²⁹⁰ The Westphalian orthodoxy demands that international authority rest exclusively within the public sphere of states. But this is no longer always the case.

MNCs have emerged as potent private authorities in international relations and even provide private governance in lieu of weak states. Following the Cold War, Susan Strange observed that power was shifting from states to markets, and that ‘the authority of the governments of all states, large and small, has been weakened as a result of technological and financial change and of the accelerated integration of national economies into one single global

²⁸⁹ Scott Pegg, “An Emerging Market for the New Millennium: Transnational Corporations and Human Rights,” in *Transnational Corporations and Human Rights*, ed. Scott Pegg and George Frynas (New York: Palgrave MacMillan, 2003); Carlos M. Vazquez, “Direct Vs. Indirect Obligations of Corporations Under International Law,” *Columbia Journal of Transnational Law* 43 (2005): 927-959; Peter Muchlinski, “Human Rights and Multinationals: Is There a Problem?,” *International Affairs* 77, no. 1 (2001): 31-48.

²⁹⁰ *The New Code Environment*, no. 16 (New York: United Nations, 1990), 35. Cited in: Kobrin, “Private Political Authority and Public Responsibility.”

market economy'.²⁹¹ This governance vacuum is filled, in part, by MNCs, which have the resources and capabilities to deliver public goods and private governance when governments are unable or unwilling to do so. Corporate observer Mark Suchman remarks that these efforts are seen as 'desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions'.²⁹² In 2002, the UN announced that it had 'abandoned' its efforts to rely on governments in weak states to stop the HIV/AIDS epidemic and turned to MNCs to provide anti-retroviral drugs. This shift in policy was 'an acknowledgement that companies have the resources to find health solutions where governments and NGOs are overstretched or failing',²⁹³ and endowed MNCs with political authority in the process.

MNCs' political authority is also growing in strong states, as these firms take on roles that were once historically reserved for the government alone. One example of this is the development of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) provision of the WTO, negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994. The agreement proposed to resolve conflicts arising from the

²⁹¹ Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press, 1996), 13–14.

²⁹² Mark C. Suchman, "Managing Legitimacy: Strategic and Institutional Approaches," *Academy of Management Review* 20, no. 3 (1995): 574. For more on the question of legitimacy and private governance, see also: Guido Palazzo and Andreas Georg Scherer, "Corporate Legitimacy as Deliberation: A Communicative Framework," *Journal of Business Ethics* 66, no. 1 (2006): 71–88.; Thomas Risse, "Global Governance and Communicative Action," *Government and Opposition* 39, no. 2 (2004): 288–313.; Kobrin, "Private Political Authority and Public Responsibility."

²⁹³ J. Lamont, "UN Seeks Help From Companies in War on HIV/AIDS," *Financial Times*, August 30, 2002.

many forms of intellectual property regulation that applied to WTO members and their citizens. The driving force behind the agreement's outcome was an ad hoc United States-based intellectual property committee, comprised of twelve MNCs that began as an initiative of Pfizer and IBM. The committee had the power to place items on the agenda, develop the standards to be negotiated, and determine the outcome, specifically arguing that the best course of action would be to set minimum standards rather than try to harmonise all intellectual property rules.²⁹⁴ In the end, the TRIPS agreement favoured the MNCs' interests, and thus, as Susan Sell observes, 'twelve corporations made public law for the world'.²⁹⁵

The conflation of public and private spheres of governance has led to the fragmentation of authority and the politicisation of the MNC. Ruggie discusses 'private authority' and 'private governance' in terms of the 'apparent assumption by MNCs and global business associations of roles traditionally associated with public authorities, sometimes in conjunction with CSOs [Civil Society Organisations or NGOs], but more widely on their own.'²⁹⁶ Palazzo and Scherer observe that corporations are increasingly assuming social responsibilities typically regarded as activities of the political system. Vogel argues that MNCs have taken on responsibilities in developing countries that

²⁹⁴ Susan K. Sell, *Private Power, Public Law: The Globalization of Intellectual Property Rights* (Cambridge: Cambridge University Press, 2003); Michael A. Santoro, *Pfizer: Global Protection of Intellectual Property* (Cambridge, MA: Massachusetts Graduate School of Business Administration, 1992); Kobrin, "Private Political Authority and Public Responsibility."

²⁹⁵ Sell, *Private Power, Public Law*, 96.

²⁹⁶ Ruggie, "Reconstituting the Global Public Domain," 502.

were once the sole preserve of NGOs.²⁹⁷ Kobrin believes 'that over time new transnational governance institutions will evolve which are not public in the sense of solely state-based, but which will have the authority and power to judge violations and impose sanctions. At that point, the distinction between public and private authority may have lost meaning'.²⁹⁸ Strange argues that MNCs are increasingly exercising 'parallel authority alongside governments' in matters of economic management because they have power over the location of industry and investment, technological innovation, management of labour relations, and the extraction of resources from host countries; in short, 'we can conclude that while MNCs do not take over from the governments of states, they have certainly encroached on their domains of power'.²⁹⁹ The neomedieval fragmentation of authority within the international system has empowered and politicized MNCs.

As MNCs have emerged as political actors in international relations there has been a corresponding effort to provide them with direct rights under international law. Cutler remarks that MNCs are 'increasingly functioning as participants in the direct creation, application and enforcement of transnational law', blurring the boundary between public and private authorities in international relations.³⁰⁰ International treaties, multilateral trade agreements like the Doha Development Round of the WTO, regional pacts

²⁹⁷ Palazzo and Scherer, "Corporate Legitimacy as Deliberation: A Communicative Framework."; David Vogel, "The Private Regulation of Global Corporate Conduct," *Business & Society* 49, no. 1 (2010): 68-87.

²⁹⁸ Kobrin, "Private Political Authority and Public Responsibility," 374.

²⁹⁹ Strange, *The Retreat of the State*.

³⁰⁰ Cutler, "Critical Reflections," 141. On the growing rights of MNCs in international law, see also: Ruggie, "Reconstituting the Global Public Domain."

such as the North American Free Trade Agreement (NAFTA) and bilateral free trade agreements between countries all accord considerable legal rights to MNCs. These include the right to resort to international law to challenge states by claiming de facto discrimination or the infringement of property rights, as well as the right to submit disputes to binding arbitration under the International Centre for the Settlement of Investment Disputes.³⁰¹ That MNCs now have rights under international law evidences their evolution—along with international organisations and NGOs—from vassals of international relations to political actors within it.

International law is historically founded on the a priori assumption that states are the sole creators of general international law; the term itself is derived from Latin and literally means the ‘law between states’. Legal scholar Anthony Arend speculates that if the ‘world were to move into something resembling a neomedieval structure, international law as we know it would change fundamentally’.³⁰² He expects that ‘general law will come through the many interactions of the multiple international actors’, suggesting a more complex process than in the past.³⁰³ Given this complexity, crafting international law will likely become what Horst Rittel and Melvin Webber term a ‘wicked problem’: a challenge so intractable that it is difficult to define, has

³⁰¹ International Council on Human Rights, *Beyond Voluntarism: Human Rights and the Developing International Legal Obligations of Companies* (International Council on Human Rights Policy, 2002); Sol Picciotto, “Rights, Responsibilities and Regulation of International Business,” *Columbia Journal of Transnational Law* 42, no. 1 (2003): 138; David Kinley and Junko Tadaki, “From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations At International Law,” *Virginia Journal of International Law* 44, no. 4 (2004): 931-1023.

³⁰² Anthony C. Arend, *Legal Rules and International Society* (Oxford: Oxford University Press, 1999), 178.

³⁰³ *Ibid.*, 185.

no patent or linear solution and has few (if any) ways of confirming whether the solution was found or not.³⁰⁴ Upon examining Bull's neomedieval framework, Arend concludes that the future world order 'lies in balance' between the Westphalian system and neomedievalism. A decade later it seems that the global trend lines are tipping the scales towards a neomedieval order.

Al-Qa'ida, Globalised Crime, and More Mordreds of Modernity

As the benefits of globalisation have extended the capacity and reach of MNCs, they also have abetted terrorists, insurgents, guerrillas, warlords, militias, pirates, organised crime syndicates and other illegal transnational actors that use violence to attain their objectives. What make these actors particularly pernicious and 'illegal' are not just their violation of law but also their use of violence. At first glance, these furtive organisations can be categorized into two types based on their goals: commercial gain versus a political cause. However, in reality the distinction between these unlawful for-profit and non-profit transnational actors is blurry, as frequently one supports the other and many armed political movements engage in blatant profiteering in the name of their cause. Regardless of their purpose, the rise of illegal transnational organisations—and the threats they pose to states—are undeniable trends since the end of the Cold War.

Perhaps there is no greater example of how transnational actors can terrorise states than the events of 11 September 2001. The topic of terrorism

³⁰⁴ Horst W.J. Rittel and Melvin M. Webber, "Dilemmas in a General Theory of Planning," *Policy Sciences* 4, no. 2 (1973): 155-169.

since al-Qa'ida's attacks in the United States is one of the most (over)covered issues in scholarly and popular discourse, and a full analysis of its many eddies is not required here. Suffice it to say that before 11 September, experts considered terrorism to be a peripheral threat to international security. That nineteen individuals could organise halfway around the world in a failed state and mount a strategic attack on the greatest superpower in the world with low-grade technology (e.g., box cutters) seemed preposterous. Even after the attacks, many remained prisoners of the state-centric Cold War paradigm and could not believe that a non-state actor could execute a terrorist act of such magnitude. Former CIA director James Woolsey counselled that it was unlikely, if not impossible, for al-Qa'ida to act alone and without state sponsorship. In an interview with the television show *Good Morning America*, he said: 'We particularly need to look hard at whether there may be some state—in my mind, most likely, Iraq—that is working together with bin Laden's group'.³⁰⁵

Today terrorism continues to be a central concern of international security. United States president George W. Bush even declared a 'war on terror', representing a clear departure from the Westphalian threat model of strong states and stronger militaries.³⁰⁶ This war, also known as the 'long war', suggests an ambiguous yet enduring global military, political, legal and

³⁰⁵ "Transcript: Ex-CIA Director James Woolsey," *Good Morning America*, October 10, 2010, accessed October 24, 2010, <http://abcnews.go.com/US/story?id=92346&page=1>. See also: Aram Roston, *The Man Who Pushed America to War: The Extraordinary Life, Adventures, and Obsessions of Ahmad Chalabi* (New York: PublicAffairs, 2009), 182.

³⁰⁶ Bush, "The National Security Strategy of the United States of America (2002)," 5–7.

ideological struggle against terrorist organisations and regimes that support terrorism, as designated by the United States.³⁰⁷ That said, many observers continue to frame the issue in terms of states, assuming that al-Qa'ida's strength can only derive from state support rather than exist independently of the state system. For the United States, it resulted in the military invasions of Afghanistan and Iraq and was strategically justified under the Bush Doctrine of preventive war, which attempts to root out terrorists and stop 'rogue states' from acquiring weapons of mass destruction that could be used against the United States.³⁰⁸ The goal in Afghanistan was to destroy al-Qa'ida and strengthen the country's government to ensure that the terrorist organisation could never use its territory as a base again. This strategy assumes that al-Qa'ida behaves like a twentieth-century national terrorist group, tied to a host state, rather than a twenty-first century transnational organisation, tied to no state. Meanwhile, al-Qa'ida left long ago in favour of Pakistan, northern Africa and the Arabian Peninsula for bases of operation, leaving the United States mired in Afghanistan. In Iraq there was never an obvious link between al-Qa'ida and the Saddam Hussein regime, and the United States invasion there remains extremely controversial. Structuring al-Qa'ida as a state-centric predicament pre-ordains failure, since the problem is quintessentially non-state in nature. The cognitive dissonance has resulted in strategic failure.

³⁰⁷ Bradley Graham and Josh White, "Abizaid Credited With Popularizing the Term 'Long War,'" *Washington Post*, February 3, 2006.

³⁰⁸ Bush, "The National Security Strategy of the United States of America (2002)," 14. See also: Robert J. Delahunty and John Yoo, "The 'Bush Doctrine': Can Preventive War be Justified?," *Harvard Journal of Law and Public Policy* 32 (Summer 2009): 843-865.

Unlike terrorists of the past that were often contained to a specific region, al-Qa'ida is a distinctly globalised neomedieval phenomenon. Armed non-state actors that use violence to achieve political aims is hardly new, and they have many names: terrorists, insurgents, guerrillas, revolutionaries, and freedom fighters. But in the twentieth century, when the Westphalian system was at its zenith, revolutionary war theorists such as Mao Zedong, Ho Chi Minh and Che Guevara all understood the purpose of their struggles as establishing a counter-state. In *On Protracted War*, Mao explains that warfare secures a new state in three stages: guerrilla warfare, mobile warfare and positional warfare. The first two stages comprise classic 'hit and run' tactics common to irregular warfare, while the last stage, 'positional warfare', describes conventional, 'regular' or Clausewitzian military engagements by standing armies that seek to hold and control territory for the future state or counter-state.³⁰⁹ Owing to this perspective, Bull would likely dismiss armed non-state actors as threats to his state-centric view of international society because they seek to create new states; they may threaten individual states, but not the system itself.

However, post-Cold War terrorists are not interested in creating new states as much as abandoning the system entirely. Al-Qa'ida does not seek to establish a Wahhabi state with representation at the UN and formal diplomatic relations with other countries; it repudiates the international society of states altogether and seeks to establish an Islamic caliphate independent of the

³⁰⁹ Mao Zedong, *On Protracted War* (Beijing: Foreign Languages Press, 1966), para. 35–38.

current international order. On 11 March 2005, the pan-Arab daily newspaper *Al-Quds Al-Arabi* published extracts of document ‘Al-Qa’ida’s Strategy to the Year 2020’, by Muhammad Ibrahim Makkawi, also known as Sayf al-Adel. The newspaper’s editor-in-chief summarizes the strategy in five stages, which is evocative of Mao’s *On Protracted War*: first, to provoke the United States into invading a Muslim country; second, to incite local resistance against the non-Muslim invaders; third, to expand and elongate the war into neighbouring countries; fourth, to transform al-Qa’ida’s Islamic ideas into operating principles that can be exported to other countries and inspire new militant cells; and fifth, after the United States economy collapses under the strain of protracted warfare, causing the United States to implode as did the Soviet Union shortly after the Soviet-Afghan war, to install the new caliphate among the *ummah*, or worldwide Muslim community, without interference from the world’s only remaining superpower.³¹⁰

Al-Qa’ida’s ambition to abandon the Westphalian order and establish a competing system in the caliphate represents a globalised neomedieval perspective, which simultaneously stems from and creates an environment of mixed authorities and allegiances on an international scale. Without a base in any single state, it mercurially moves around the planet, evading and striking its enemies at the same time, akin to guerrilla fighters in T.E. Lawrence’s *Seven*

³¹⁰ Bassam al-Baddarin, “Al-Qaeda Has Drawn Up a Working Strategy Lasting Until 2020,” *al-Quds al-Arabi*, March 11, 2005. ; Stephen Ulph, “Al-Qaeda’s Strategy Until 2020,” *Terrorism Focus* 2, no. 6 (May 2005). ; Abdel Bari Atwan, *The Secret History of Al Qaeda* (Berkeley: University of California Press, 2008), 284.

Pillars of Wisdom. 'We might be a vapour, blowing where we listed. Our kingdoms lay in each man's mind, and as we wanted nothing material to live on, so we might offer nothing material to the killing'.³¹¹ Al-Qa'ida operates in a similar manner but on an international scale, thanks to the benefits of globalisation. They have established cells in the Maghreb, the Arabian Peninsula, Europe and other regions, and have launched coordinated attacks in Madrid, Bali, Casablanca, London and New York City. Globalisation has rendered al-Qa'ida's war borderless.

Al-Qa'ida's success will likely make it a template for other groups who wish to leave the international society of states, further reinforcing the world movement toward a globalised neomedieval order. That the organisation persists after ten years of war against the United States is significant, an inspiration for other groups that feel disenfranchised in a world order that imposes what some believe are ethnocentric and Western norms of justice in the form of international law and human rights. This is especially true in Africa, where the creation of the state was an artificial consequence of colonialism rather than an organic extension of a people and their nation. Boko Haram in Nigeria and al-Shabaab in Somalia are militant Islamist groups seeking to create their own caliphates under strict sharia law. The growing desire to leave the international society of states as Bull would have conceived it evidences the emergence of a neomedieval world order of multiple authorities and allegiances; a vision of a regional or global caliphate based on

³¹¹ T.E. Lawrence, *Seven Pillars of Wisdom* (London: Wordsworth Editions Ltd, 1997), 182.

religious identity rather than territorial nationalism harkens back to the Middle Ages, when the Church commanded authority on par with states.

The Nefarious Side of Global Trade

Outlaws and organised crime were a serious threat to states and citizens in the Middle Ages. During the reign of Edward III (1312-77), robber barons such as Thomas de Lisle, Bishop of Ely, and Sir John Molyns exploited their aristocratic power to run criminal organisations that openly engaged in robbery, extortion and murder in the face of state authorities. Gangs led by noble families such as the Folvilles and the Coterels had free reign over large swathes of England and committed crimes with impunity. In 1326 the Folvilles and their confederates murdered Sir Roger Bellers, a baron of the exchequer. A few years later, they abducted justice Sir Richard Willoughby, later chief justice of the king's bench, and ransomed him back to the king for 1,300 marks, an exorbitant sum at the time.³¹² In the heterogeneous political environment of the Middle Ages, the king's law often competed with the robber baron's law rather than subdued it.

A similar situation has developed since the end of the Cold War between transnational criminal organisations and legitimate authorities such as states and international organisations. Many criminal organisations are so strong they now openly challenge and even co-opt states. Just as globalisation has expanded the political power of MNCs in international relations, it has

³¹² E.L.G. Stones, "The Folvilles of Ashby-Folville, Leicestershire, and Their Associates in Crime, 1326-1347," *Transactions of the Royal Historical Society* 7 (1957): 117-135.

benefitted their shadowy counter-parts and fostered an international black market historically unrivalled in scale and scope. Sophisticated criminal organisations around the world traffic drugs, small arms and light weapons; women and children for sexual exploitation; undocumented migrants; counterfeit goods and intellectual property; natural resources; stolen vehicles; and other contraband that are produced or stolen, moved and then sold in a global market. Dimitri Vlassis of the UN Office on Drugs and Crime estimates that the overall annual profits of organised crime are about \$1 trillion, almost as much as the United States annual federal budget.³¹³ Making matters complicated for law enforcement, today's criminal networks diversify their portfolios to reduce risk and detection. Integral to these activities are money laundering and corruption, which allow criminals to reap the benefits of their ill-gotten revenue and expand their range of activities and power. Transnational criminal organisations operate independently within the international system, a de facto indication of their political authority in the neomedieval order.

Globalisation is not responsible for the rise of transnational crime but it facilitates it through the unifying effects of technology, allowing criminal organisations to transcend national borders. As Louise Shelley observes, 'significant technological advances most affecting the growth of transnational crime include the rise of commercial airline travel, telecommunications

³¹³ Dimitri Vlassis, "Global Situation of Transnational Organized Crime, the Decision of the International Community to Develop an International Convention and the Negotiation Process," *Resource Material Series*, no. 59 (2002): 475.

(including telephone, fax and computer networks) and the use of computers in business'.³¹⁴ The Latino gangs Mara Salvatrucha (MS-13) and the 18th Street Gang (M-18) evolved quickly from localised street gangs in Los Angeles into transnational gangs across the United States and Central America thanks to modern technology and transportation, allowing them to share information and even coordinate operations.³¹⁵ A recent criminal case found that a MS-13 group, or clique, in Maryland maintained contact with cliques across the United States and El Salvador. Another case revealed that cliques loan weapons to one another. Also, the porous United States-Mexico border makes it easy for MS-13 and MS-18 to recruit members in El Salvador and Mexico for United States operations, which is more lucrative for criminals than poorer countries in Central America.³¹⁶ In response to this emerging transnational threat, the FBI created a transnational anti-gang initiative, which coordinates with law enforcement in other countries such as El Salvador.³¹⁷

The criminal organisations are also transnational in that they capitalize on the complex global financial system to launder their money, which is massive in quantity, by intermingling it with legitimate banking and other financial transactions, making it difficult for regulators to find and freeze criminal money without disrupting the entire global financial system. To

³¹⁴ Louise Shelley, "Transnational Organized Crime: An Imminent Threat to the Nation-State," *Journal of International Affairs* 48, no. 2 (1995).

³¹⁵ For more on the definition of a transnational crime see: James Finckenaue, "Meeting the Challenge of Transnational Crime," *Crime and Justice International* 17, no. 48 (2001): 3, 5-6.

³¹⁶ Celinda Franco, *The MS 13 and 18th Street Gangs: Emerging Transnational Gang Threats?* (Washington, DC: Congressional Research Service, 2007), 9.

³¹⁷ "Going Global on Gangs: New Partnership Targets MS-13," Federal Bureau of Investigation, October 10, 2007, accessed November 20, 2010, http://www.fbi.gov/news/stories/2007/october/ms13tag_101007.

provide some scale of the challenge, North American cocaine sales alone are estimated at \$38 billion in 2008.³¹⁸ Similarly, modern international trade and technology has made the production and distribution of criminal goods feasible on a global scale. According to the UN *World Drug Report 2010*, opium production has increased by 78 per cent over the past ten years and heroin seized in Pakistan in 2008 was destined for every continent save Antarctica.³¹⁹ The technological unification of the world lowers the barriers for business, licit and illicit alike.

Like al-Qa'ida, transnational criminals are truly globalised, and strong law enforcement in one country simply pushes the criminal organisation into a neighbouring state, making them impossible to eradicate with a state-centric strategy. A good example of the fusion between transnational criminal and terrorist organisations is D-Company, a 5,000-member criminal syndicate operating mostly in Pakistan, India and the United Arab Emirates. D-Company is involved in several criminal activities including extortion, smuggling, narcotics trafficking and contract killing.³²⁰ The crime boss of D-Company is Dawood Ibrahim, an Indian Muslim raised in a poor Muslim enclave of Mumbai. Like many Muslims, Ibrahim was outraged by the 1992 destruction of the Babri Mosque in Uttar Pradesh, India, by Hindu rioters. In response, he shifted the focus of D-Company from pure profiteering to

³¹⁸ UNODC, *World Drug Report 2010* (Vienna: UNODC, 2010), 77.

³¹⁹ Ibid, 12, 147.

³²⁰ Sumita Sarkar and Arvind Tiwari, "Combating Organised Crime: A Case Study of Mumbai City," *Faultlines: New Delhi* 12 (2002): 133-176.; Gregory F. Treverton, *Film Piracy, Organized Crime, and Terrorism* (Santa Monica, CA: Rand Corporation, 2009), 128-135.

protecting the Muslim population of India, and on March 12, 1993, D-Company launched a series of bombing attacks, killing 257 people.³²¹ To avoid the wrath of the Indian government, Ibrahim moved D-Company to Pakistan, beyond the reach of Indian law enforcement and with a tacit nod from the Pakistani Inter-Services Intelligence agency (ISI).³²²

Once in Pakistan, D-Company forged operational ties with al-Qa'ida and Lashkar-e-Tayyiba, another terrorist group, providing them with material support and allowing them to utilise D-Company's smuggling routes.³²³ Ibrahim also allegedly provided a boat for the ten terrorists who killed 173 people in the Mumbai attacks on November 26, 2008.³²⁴ The convergence of transnational crime and terror is indicative of neomedievalism, and a purely state-centric approach is insufficient to deal with the situation. As Vlassis explains, 'it has become clear that only by tackling organised crime in a concerted manner inroads can be made into a problem that exceeds the capacity of national mechanisms operating alone'.³²⁵

Some transnational criminal organisations are so strong that they take over states for their own purposes. Since the end of the Cold War, more and more countries are becoming narco-states, controlled and corrupted by drug

³²¹ Sarkar and Tiwari, "Combating Organised Crime," 121.

³²² John Rollins, *International Terrorism and Transnational Crime: Security Threats, US Policy, and Considerations for Congress* (Washington, DC: Congressional Research Service, 2010), 15.

³²³ Ibid; Treverton, *Film Piracy, Organized Crime, and Terrorism*, 126; Ryan Clarke and Stuart Lee, "The PIRA, D-Company, and the Crime-Terror Nexus," *Terrorism and Political Violence* 20, no. 3 (2008): 388.

³²⁴ "Captured Mumbai Terrorist Reveals Plot to Slaughter 5000," *Herald Sun*, December 1, 2008; Rollins, *International Terrorism and Transnational Crime*, 16.

³²⁵ Vlassis, "Global Situation of Transnational Organized Crime," 475.

cartels, where rule of law is effectively non-existent.³²⁶ The narco-state is a neomedieval phenomenon, emerging as the Westphalian order declines and correlated with the rise of transnational criminal organisations and other neomedieval threats. Since the early 1990s, the trend of drug cartels co-opting states has grown, in the Tijuana and Gulf cartels in Mexico and Central America; warlords in Afghanistan, Tajikistan and the Golden Crescent area; mafia such as the Arkan gang or Rudaj Organisation in the Balkans; and South American cartels operating in West Africa.

The small West African nation of Guinea-Bissau is an archetypal example of the narco-state. UN Secretary General Ban Ki-moon describes the recent economic boom in the small West African nation as ‘fast becoming a major market place’.³²⁷ However, the commodity he is referring to is not clothes or cars but cocaine. Europe remains a primary market for South American cocaine, with approximately 4.5 to 5 million users, representing about one quarter of worldwide cocaine consumption.³²⁸ Colombian drug cartels found the ideal transit hub in West Africa, given its location, abject poverty, thin rule of law and state weakness, and Guinea-Bissau is particularly ripe for exploitation: It is the fifth-poorest country in the world and rife with

³²⁶ For more on the definition of a ‘narco-state’ see: Ashley-Louise Bybee, “The Narco-Curse in West Africa,” *New Voices in Public Policy* 3, no. 2 (2009): 18. See also: Joseph Kirschke, “The Coke Coast. Cocaine and Failed States in Africa,” *World Politics Review*, Pt 1 (2008), <http://www.worldpoliticsreview.com/article.aspx?id=2629>; Antonio L. Mazzitelli, “Transnational Organized Crime in West Africa: The Additional Challenge,” *International Affairs* 83, no. 6 (2007): 1071-1090; Liana Sun Wyler and Nicolas Cook, *Illegal Drug Trade in Africa: Trends and US Policy*, (Washington, DC: Congressional Research Service, 2009); Dirk Kohnert, “Democratization Via Elections in an African ‘Narco-State’? The Case of Guinea-Bissau,” GIGA Working Papers Series (2010): 12.

³²⁷ “Guinea-Bissau Drugs Sanctions Threat,” *BBC News*, accessed November 5, 2010, <http://news.bbc.co.uk/go/pr/ft/-/2/hi/africa/7650063.stm>.

³²⁸ UNODC, “World Drug Report 2010,” 15.

corruption. Western officials estimate \$150 million of cocaine flows into Guinea-Bissau per month from Latin America, equal to the country's annual GDP, en route to Europe.³²⁹

Nor is this a uniquely Guinea-Bissau problem. In the late 1990s and early 2000s, cocaine seizures in all of Africa rarely exceeded one metric ton a year.³³⁰ Now, estimates of annual cocaine trans-shipments in West Africa range between 60 and 250 tons, yielding wholesale revenues of \$3 billion to \$14 billion. In November 2009, a Boeing 727 crash-landed on a dry lake bed in the desert of northern Mali. When UN investigators finally arrived at the site, the plane's owners had already torched the aircraft to hide evidence of their identity and removed its cargo: about ten tons of cocaine fetching a wholesale value of \$580 million. The yields from cocaine trans-shipment dwarf the subregion's official resources. During an incident in January 2008, Malian security officials seized 750 kilograms of cocaine following a shoot-out. This one haul represented thirty-six percent of Mali's entire 2007 military expenditures. Similarly, the 350 kilograms of cocaine seized on one occasion in August 2007 in Benin represented the annual per capita income of 31,000 Beninois.³³¹

However, rather than viewing the drug trade as a problem, some Africans view it as a business opportunity in a parallel global economy

³²⁹ Stephanie Hanson, "In West Africa, Threat of Narco-States," *Council on Foreign Relations Analysis Brief*, July 10, 2007.

³³⁰ Wyler and Cook, "Illegal Drug Trade in Africa," i.

³³¹ Davin O'Regan, "Cocaine and Instability in West Africa: Lessons From Latin America and the Caribbean," *Africa Security Brief* (Washington, DC: African Center for Strategic Studies, 2010), 1-2.

compromised of contraband. As one African observer explains, 'If Africa is not allowed to export legitimate produce, it will export drugs, prostitutes and illegal migrants'.³³² This is worrisome to strong states such as the United States, which is concerned with the nexus among transnational organised criminals, terrorists and weak states.³³³ The linkages among transnational arms dealer Viktor Bout, al-Qa'ida and Liberian president Charles Taylor are now known.³³⁴ The spectre of similar future collaborations is a threat to strong states since connections are emerging between the Colombian cartels, al-Qa'ida in the Islamic Maghreb (AQIM) and the drug transit corridor from Western Africa through the Sahel to Northern Africa, which is demarcated by weak states and armed conflict. As an official report to the United States Congress bluntly put it, 'The growth of drug trafficking through Africa poses new challenges to international counternarcotics efforts, as well as a variety of emergent threats to the United States'.³³⁵ The lines of illicit supply and demand fuelling the criminal parallel economy can provide sources of financing for non-drug operations, increased international ties with other illicit actors and

³³² Joseph Winter, "Africa - New Front in Drugs War," *BBC News*, July 9, 2007, <http://news.bbc.co.uk/2/hi/africa/6274590.stm>.

³³³ See: Wyler and Cook, "Illegal Drug Trade in Africa."; Rollins, *International Terrorism and Transnational Crime*; Michael P. Arena, "Hizballah's Global Criminal Operations," *Global Crime* 7, no. 3 (2006): 454-470.; Andre Le Sage, "Africa's Irregular Security Threats: Challenges for US Engagement," (Washington, DC: Institute for National Security Studies, 2010); Lauren Ploch, "Africa Command: US Strategic Interests and the Role of the US Military in Africa," (Washington, DC: Heritage Foundation, 2010); Robert G. Berschinski, *Africom's Dilemma: The "Global War on Terrorism," "Capacity Building," Humanitarianism, and the Future of US Security Policy in Africa* (Carlisle, PA: Strategic Studies Institute, 2007).

³³⁴ Douglas Farah and Stephen Braun, *Merchant of Death: Money, Guns, Planes, and the Man Who Makes War Possible* (New Jersey: John Wiley & Sons, 2007).

³³⁵ Wyler and Cook, "Illegal Drug Trade in Africa," 4.

access to barter deals involving drugs and other illicit goods, such as black market arms.³³⁶

The development of a sophisticated international shadow economy among transnational actors, who have the power to co-opt states, evidences the rise of globalised neomedievalism. Like al-Qa'ida, these transnational actors are self-governing, operate in a borderless manner, have the capacity to threaten strong states and are independent political actors in world affairs. Taken together, they have created a parallel international political economy that competes—and at times is at war with—the legitimate political economy of Bull's society of states.

The Disintegration of States

Unconstrained political rivalries, the proliferation of warlords and mercenaries, weak states, weaker rulers, cowed populations and little or no rule of law created the maelstrom that was northern Italy in the high Middle Ages. In the absence of a competent civil authority, rulers became tyrants and people became prey. Florence and Ravenna developed into fortresses, villages grew walls (*castelli*) and the hilltops were adorned with castles to protect the powerful. Bloody vendettas between families such as the Montefeltri and the

³³⁶ See, for example: David Lewis, "Qaeda Fuels Security, Criminal Woes in Sahara States," *Reuters*, February 12, 2010; Williams, *From the New Middle Ages to a New Dark Age*; David M. Luna, "Narco-Trafficking: What Is the Nexus With the War on Terror?" (panel presentation, Armed Forces Communications and Electronics Association/Southern Command Conference SOUTH 2008, October 8, 2008); Alain Rodier, "L'Infiltration d'Al-Qaeda en Afrique," Centre Français de Recherche sur le Renseignement (CF2R), Note d'Actualité, no. 2 (2004); and J. Peter Pham, "Islamist Extremism's Rising Challenge to Morocco," *World Defence Review*, August 7, 2008.

Malatesti lasted centuries and claimed countless lives even though no one could recall why there was a vendetta in the first place. The ceaseless wars between states, cities, the church and anyone else who could rent or raise an army left the countryside destitute, hungry and frightened. While passing through hell, Dante is approached by a particularly infamous warlord called Mastin Vecchio who asks the travelling poet whether his homeland of Romagna is at peace or not. Dante replies: ‘Your Romagna is not and never has been without war in the hearts of its despots’.³³⁷

Like Dante’s *Inferno* or medieval Romagna, life in a modern failed state—Somalia or Liberia—can be hell, and incidences of state failure seem to be on the rise since the Cold War ended. Since Bull’s day, entire countries have disappeared, some quietly (Czechoslovakia) and some not (Yugoslavia). Today about 1 billion people live in a failing or fragile state, and trends indicate that this number will increase in the future.³³⁸ There has been an explosion of literature on the disintegration of states since the mid-1990s, yet precise definitions of state ‘weakness’ are lacking. It is easy to identify clear-cut cases of strong states, such as the United States or the United Kingdom, and also state failure, such as Somalia and Haiti. But there is less consensus on what comprises a weak or fragile state, other than the famous formulation that ‘I know it when I see it’.³³⁹ Definitions range widely and even the terminology is

³³⁷ “Romagna tua non è, e non fu mai, senza guerra ne’ cuor de’ suoi tiranni”. Dante Alighieri, *The Divine Comedy: Inferno*, canto XXVII, st. 37–38.

³³⁸ Hewitt, *Peace and Conflict* 2010, 65.

³³⁹ With apologies to US Supreme Court Justice Potter Stewart on identifying pornography: *Jacobellis v. Ohio*, 378 United States 184 (1964).

unsettled, as there are myriad labels for these countries: ‘difficult partners’,³⁴⁰ ‘difficult environments’,³⁴¹ ‘fragile states’,³⁴² ‘low income countries under stress (LICUS)’,³⁴³ ‘poor performers’,³⁴⁴ ‘weak performers’,³⁴⁵ ‘failing’ or ‘failed states’,³⁴⁶ and ‘countries at risk of instability’.³⁴⁷ At least twenty-five indices now identify fragile and failed states using a variety of indicators, from poverty to insecurity to lack of freedom.³⁴⁸ Similarly, scholarship on the topic has burgeoned over the last two decades, ranging from Jeffrey Sachs’s sanguine *The End of Poverty: Economic Possibilities for Our Time* to William Easterly’s less sanguine *The White Man’s Burden: Why the West’s Efforts to Aid the Rest Have Done So Much Ill and So Little Good* to something more in between with Paul Collier’s *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done*

³⁴⁰ OECD, DCD/DAC(2001)26/REV1, “Poor Performers: Basic Approaches for Supporting Development in Difficult Partnerships,” November 2001, <http://www.oecd.org/dataoecd/26/56/21684456.pdf>.

³⁴¹ Magüi Moreno Torres and Michael Anderson, “Fragile States: Defining Difficult Environments for Poverty Reduction,” PRDE Working Paper, no. 1 (August 2004).

³⁴² USAID, “Fragile States Strategy,” (USAID, January 2005), http://www.usaid.gov/policy/2005_fragile_states_strategy.pdf.

³⁴³ World Bank, “World Bank Group Work in Low-Income Countries Under Stress: A Task Force Report,” (World Bank LICUS Task Force, September 2002).

³⁴⁴ AUSAid, “Australian Aid: Investing in Growth, Stability and Prosperity,” September 2002, <http://www.ausaid.gov.au/about/eleven.html>.

³⁴⁵ Asian Development Bank, “ADB’s Approach to Weakly Performing Developing Member Countries,” (discussion paper for the Asian Development Fund (ADF) IX Donors’ Meeting, March 2004).

³⁴⁶ Robert Rotberg, ed., *When States Fail: Causes and Consequences* (Princeton: Princeton University Press, 2004).

³⁴⁷ “Investing in Prevention: An International Strategy to Manage Risks of Instability and Improve Crisis Response,” A Prime Minister’s Strategy Unit Report to The Government of the United Kingdom (February 2005).

³⁴⁸ For example, see: Afrobarometer; Business Environment and Enterprise Performance Survey; Business Environment Risk Intelligence (BERI); The World Bank’s Country Policy & Institutional Assessment; State Failure Task Force State Capacity Survey; Global Insight’s DRI/McGraw-Hill; European Bank for Reconstruction and Development; The Economist Intelligence Unit; Freedom House; Gallup International; World Economic Forum; Heritage Foundation/Wall Street Journal; Human Rights Database; Latinobarometro; Political Risk Services; Reporters Without Borders; Institute for Management Development’s ‘World Competitiveness Yearbook’; World Markets Online; PriceWaterhouseCoopers’s ‘Opacity Index’; The World Business Environment Survey; the Fund For Peace ‘Failed State Index’; Brookings Institute’s ‘Index of State Weakness in the Developing World’; The Peace and Conflict Instability Ledger; The Political Instability Task Force (PITF); German Ministry of Development’s ‘Listing of Failing States (BMZ)’.

About It. These books are academic best sellers and widely read in popular culture.

During the Cold War, failing or failed states were seen only as a humanitarian tragedy, and strong states could opt for a policy of disengagement. This changed with the civil wars of the Balkans in the 1990s, which many feared could spread throughout Eastern Europe, and the events of 11 September 2001, which were prepared for and launched from the fragile state of Afghanistan. These challenges demonstrated that fragile and failed states could be security threats, pole-vaulting the issue of state disintegration to the forefront of national security thinking, especially as most state strength indices have ranked the majority of the world's nearly 200 states as weak, failing or failed.³⁴⁹ The fear is that weak states can wittingly or unwittingly act as incubators for armed groups, such as insurgents, terrorists, militias and criminal organisations, who have transnational reach due to globalisation.³⁵⁰

In a reversal of the Westphalian threat model, weak states now pose a greater danger to strong states than other strong states do; as the United States national security strategy of 2002 declared, 'America is now threatened less by conquering states than we are by failing ones'.³⁵¹ Nearly ten years later, United

³⁴⁹ For example, see: United States Fund for Peace Failed States Index; and the Brookings Institution Index of State Weakness in the Developing World.

³⁵⁰ For more on this theme, see: Richard H. Shultz and Andrea J. Dew, *Insurgents, Terrorists, and Militias: The Warriors of Contemporary Combat* (New York: Columbia University Press, 2006); Querine H. Hanlon, *The Three Images of Ethnic War* (Westport, CT: Praeger Security International, 2009); Kledja Mulaj, *Violent Non-State Actors in World Politics* (New York: Columbia University Press, 2009); Anthony Vinci, *Armed Groups and the Balance of Power: The International Relations of Terrorists, Warlords and Insurgents* (London: Taylor & Francis, 2009).

³⁵¹ Bush, "The National Security Strategy," 1.

States Secretary of Defence Robert Gates says ‘fractured or failing states’ are ‘the main security challenge of our time’.³⁵² He further explains this threat:

The recent past vividly demonstrated the consequences of failing to address adequately the dangers posed by insurgencies and failing states. Terrorist networks can find sanctuary within the borders of a weak nation and strength within the chaos of social breakdown. The most likely catastrophic threats to the United States homeland, for example, that of a United States city being poisoned or reduced to rubble by a terrorist attack, are more likely to emanate from failing states than from aggressor states.³⁵³

The significance of state disintegration for international security is magnified when considering that most of the world’s states are weak. The preponderance of state disintegration further evidences the emergence of globalised neomedievalism.

Knowing It When You See It

The diversity of opinions about state collapse, its causes and its effects—and the bonanza of attention on the topic since the end of the Cold War—confirms a growing apprehension regarding the phenomenon. State strength is a relative concept that is difficult to measure, but features of a strong state typically include, as a minimum, the provision of security, essential civil freedoms and basic services. Fragile and failed states lack the will or capacity to provide these ‘political goods’ to citizens,³⁵⁴ resulting in what Gabriel Marcella

³⁵² Robert M. Gates, “Helping Others Defend Themselves: The Future of U.S. Security Assistance,” *Foreign Affairs* (May/June 2010): 2.

³⁵³ Robert M. Gates, “A Balanced Strategy: Reprogramming the Pentagon for a New Age,” *Foreign Affairs* (January/February 2009): 31.

³⁵⁴ On ‘political goods’ see: Rotberg, *When States Fail*, 5.

describes as ‘inadequate public security forces, dysfunctional judicial systems, inadequate jails which become training schools for criminals, and deficiencies in other dimensions of state structure such as maintenance of infrastructure’.³⁵⁵ This vacuum is often filled by non-state actors creating what Marcella says is ‘essentially two states within their boundaries: the formal and the informal’.³⁵⁶ John Rapley makes similar observations when observing the slums of Jamaica, noting that where the state has failed to provide essential services, local area leaders or ‘dons’ step in to provide basic services, albeit under their independent rule. As he explains:

The local gang maintains its own system of law and order, complete with a holding cell fashioned from an old chicken coop and a street-corner court. It ‘taxes’ local businesses in return for protecting them, punishing those who refuse to pay with attacks on property and people. It provides a rudimentary welfare safety net by helping locals with school fees, lunch money, and employment—a function that the Jamaican government used to perform. But over the last couple of decades, keen to reduce spending, it has scaled back many of its operations, leaving a vacuum. As one kind of authority has withdrawn, another has advanced.³⁵⁷

In short, new authorities fill in the void left by the retreating state. Often these new authorities resemble warlords with private armies, who enforce the warlord’s own rule of law. Examples of this phenomenon include the Sendero Luminoso (Shining Path) in Peru, where the state does not fully exist outside Lima. Similarly, in Afghanistan the United States military has

³⁵⁵ Gabriel Marcella, *American Grand Strategy for Latin America in the Age of Resentment* (Carlisle, PA: Strategic Studies Institute, 2007), 10.

³⁵⁶ *Ibid*, 24.

³⁵⁷ John Rapley, “The New Middle Ages,” *Foreign Affairs* (May/June 2006): 95.

relied on warlords to provide security for United States convoys far away from Kabul.³⁵⁸ Although Marcella and Rapley focus primarily on Latin America and the Caribbean, their observations are equally valid for other parts of the world, especially Central Asia and Africa, and their conclusions indicate that state fragility is on the rise.

Scientific surveys confirm the trend of growing state weakness. The Economist Intelligence Unit's 2010 index of state capability, based on an unweighted assessment of twelve indicators, measures the state's ability to provide physical security, efficient institutions and capable administration. The survey found that of the 163 countries evaluated, only thirty-four are classified as 'highly capable' with the rest assessed as moderately weak (38), weak (33) or very weak (58) states.³⁵⁹ Similarly, according to the State Fragility Index and Matrix of 2008, conducted by the Centre for Systemic Peace and Centre for Global Policy at George Mason University, the majority of states in the world are weak (see

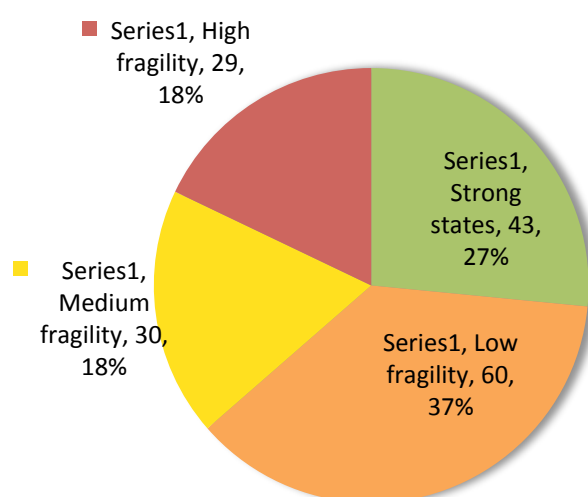
Figure 3). The matrix lists all independent countries in the world in which the total country population is greater than 500,000 in 2008, totalling 162 countries. The matrix then scores each country on both effectiveness and legitimacy at the end of 2008 in four performance areas: security, political, economic and social. From this, the matrix derives a ranking of state fragility

³⁵⁸ *Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan: Report before the Subcommittee on National Security and Foreign Affairs, U.S. House of Representatives*, 111th Cong. (June 22, 2010), 17.

³⁵⁹ The Economist, "The State of the State," in *The World in 2010* (2010), 90.

and finds that of the 162 countries, 119—73 per cent—are ‘fragile’. Of these 60 have ‘low fragility’, 30 have ‘medium fragility’ and 29 have ‘high fragility’. The results of the matrix suggest that a country’s fragility is closely associated with its capacity for managing armed conflict, making and implementing public policy, delivering essential services to citizens and maintaining overall systemic resilience and coherence.³⁶⁰

Figure 3: State Fragility Index and Matrix of 2008



Another index of state weakness is the Peace and Conflict Instability Ledger, which concludes with similar findings. This biannual report is compiled by the University of Maryland’s Centre for International Development and Conflict Management, and uses five indices of instability: institutional consistency, economic openness, infant mortality rates, militarisation and neighbourhood security. The 2010 report concludes that thirty-six of the 162 reviewed

³⁶⁰ Monty G. Marshall and Benjamin R. Cole, *Global Report 2009: Conflict, Governance, and State Fragility* (Virginia: Center for Systemic Peace, 2009), 25–30.

countries are at 'high' or 'highest' risk of instability that leads to violence, and that the overall global risk of instability has been increasing. For 2008 the average score for 'high risk' countries is 14.1, whereas the average for 2010 is 17.3, a statistically significant difference. Even countries assessed to have a 'moderate' risk of instability are worsening, with the average score increasing from 5.3 in 2008 to 7.4 in 2010. Especially disturbing is that seventeen countries have increased their risk of instability by more than 30 percentage points from 2008 to 2010, while Angola, Djibouti, the Kyrgyz Republic and Mauritania all increased by more than 100 percentage points.³⁶¹ Like the State Fragility Index and Matrix, the Peace and Conflict Instability Ledger finds that state fragility and disintegration are increasing within the international system.

Per Bull's analytical framework, a sign of state disintegration is the presence of multiple loyalties for significant portions of the population. Like the Middle Ages, individuals in fragile states may have mixed and multiple allegiances to the state, religion, ethnicity, tribe and other identity groups. Liberia has fourteen to sixteen distinct tribes, and identifying oneself as a Liberian may take second place to identifying oneself as a member of the Krahn tribe. In such instances, the purpose of politics is to enter national government to benefit one's own ethnic group at the expense of the country, as Liberian president Samuel Doe did for the Krahn tribe after his coup d'état in 1980. Graft is not new but the extent of it may be, as rulers of some failed states deliberately weaken it to better extract national resources for private

³⁶¹ Hewitt, *Peace and Conflict 2010*, 31.

gain. As Reno writes of Sierra Leone, ‘The country’s rulers intentionally made life for their subjects less secure and more materially poor. They became personally wealthy as a consequence of this disorder, and then sold chances to profit from disorder to those who could pay for them by providing services—as experts in violence, for example—and to those local and expatriate businessmen who traded their access to commercial networks’.³⁶²

The lack of loyalty to the state in fragmented political environments is a significant problem for the United States nation-building strategy in Iraq. In an independent report to the United States Congress, retired general James Jones, the former NATO commander and United States national security advisor, said that ‘allegiance of many personnel [within the Iraqi government] has been to individual ministries, parties, tribes, and clans rather than to the central government, and such division of loyalties undermines their ability to provide security’.³⁶³ Likewise, in 1999 Timor-Leste—also known as East Timor—declared independence from Indonesia and in 2002 established a new Timor-Leste national police force (PNTL), with help from the UN. However, rather than safeguarding the public, the PNTL instead became sectarian marauders, preying on the public as much as protecting it. Numerous paramilitary units were created in the PNTL with unclear mandates and ambiguous chains of command, often serving specific political parties or

³⁶² William Reno, “Sierra Leone: Warfare in a Post-State Society,” in *State Failure and State Weakness in a Time of Terror*, ed. Robert Rotberg (Princeton: Princeton University Press, 2004): 71-100.

³⁶³ Independent Commission on the Security Forces of Iraq, *The Report of the Independent Commission on the Security Forces of Iraq* (Washington, DC: CSIS, 2007), 91.

leaders. This created tensions between the PNLT and Timor Leste's defence forces, leading to a mini-coup d'état in the eastern part of the country during early 2004 that required an international armed intervention to stabilize the situation.³⁶⁴ Individual competing loyalties to the government, ethnic group, political party, religious organisation, leader and other non-state entities harkens back to a medieval era.

Another signal of sovereignty's retreat is the growing prevalence of legal pluralism. Legal pluralism arises when different legal ideas, principles and systems are applied to the same circumstance, and can be defined as 'the existence, within a specific society, of different legal mechanisms applying to identical situations'.³⁶⁵ A primary advantage of parallel legal structures is that it accommodates the divergent justice norms of minority groups. In Kenya, *kabdi* courts are a discrete legal system for Muslims, applying sharia law where government courts use a legal system based on British law. Kenyan Muslims can choose between state or religious courts to resolve disputes. India and Tanzania have similar Islamic courts to address concerns in Muslim communities. In the Philippines, the government recognizes the customary ways of indigenous peoples in the Cordilleras region, especially in the province of Kalinga where people use the process of *bodong*, or peace pact, to settle disputes. Though successful, these states have essentially traded a traditional element of sovereignty for stability: If one of the precepts of state strength is

³⁶⁴ Edward Rees, "External Study: Security Sector Reform (SSR) and Peace Operations: Improvisation and Confusion From the Field," (New York: United Nations, 2006), 18–19.

³⁶⁵ Jacques Vanderlinden, "Le Pluralisme Juridique: Essai De Synthèse," *Le pluralisme juridique* (1972): 19.

its ability to compel obedience and impose its law, then legal pluralism demonstrates state weakness and the presence of multiple authorities.

Fragmentation of allegiance taken to an extreme results in civil war and trans-border conflict between duelling identity groups, in what Rupert Smith terms ‘wars amongst the people’.³⁶⁶ These wars are fought by civilians against other civilians or the government, and often occur without respect for the territorial boundaries of the state, another indicator of state weakness. The Kurds in the Middle East are a distinct ethnic group who desire their own state and fight across eastern Turkey, northern Iraq and northern Iran. Similarly, the Hutu and Tutsi genocide occurred throughout the Great Lakes region of central Africa, and not just Rwanda, as is popularly conceived. Hutu and Tutsi populations exist throughout Rwanda, Burundi, Uganda and eastern Democratic Republic of the Congo. The boundaries of these states do not reflect an organic nationhood in physical space; they are the imposition of European colonial cartographers two centuries ago.

Westphalian military-to-military engagements are exceedingly rare today and 90 per cent of casualties in contemporary conflict are civilian.³⁶⁷ Conflict-affected countries have by definition lost their monopoly of force and are plagued by civil war, ethnic conflict, insurgency, rampant violent crime, warlordism and general lawlessness. A review of conflict trends over the last

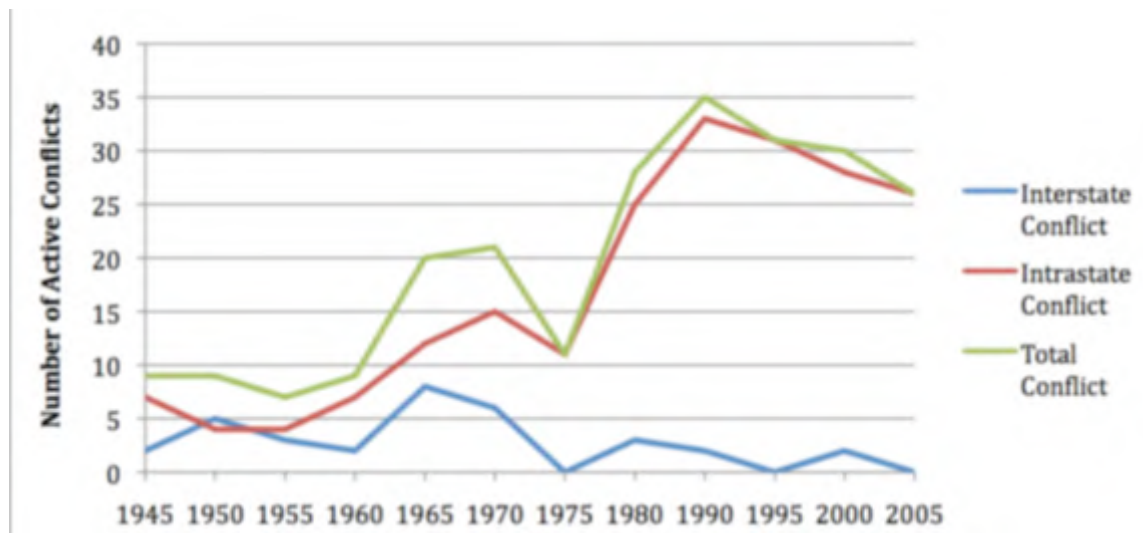
³⁶⁶ Smith, *The Utility of Force*.

³⁶⁷ Roberts, “Lives and Statistics.”; see also Cantir and Schrodt, *Neomedievalism in the Twenty-First Century*, 4.

sixty years confirms this, showing a tripling of intrastate conflicts while the number of interstate wars has declined to zero in 2010 (see

Figure 4).³⁶⁸ The top twenty-five ‘at risk’ countries all have at least one active ethnic insurgency or terrorist group within their borders. Armed non-state actors are prevalent in states that are failing and where intrastate conflict is the most prone to reoccur, suggesting a mutually causal relationship. The report concludes that ‘the number of conflict recurrences has surged to unprecedented levels. Since the mid-1990s, recurrences outnumber new onsets by significant margins’.³⁶⁹ Today ‘irregular’ warfare is more regular than the ‘regular’ warfare articulated by Clausewitz and the Westphalian way of war, fought between states through militaries.³⁷⁰

Figure 4: Conflict Trends 1945–2005



³⁶⁸ Hewitt, et al., *Peace and Conflict 2010*, 28.

³⁶⁹ Ibid, 31.

³⁷⁰ For more information on this transformation, see: Van Creveld, *The Transformation of War*; Christopher Coker, *Humane Warfare* (New York: Routledge, 2001); Smith, *The Utility of Force*.

State sovereignty is retreating on seemingly every front since the Cold War ended. Aside from a handful of strong states in Western Europe, North America and parts of Asia, an increasing majority of states in the world are fragile. Where state governments are weak, non-state entities have filled in the authority vacuum and imposed their own independent rule, complete with their own monopoly of force, from Jamaica to Somalia. Other states have deliberately diluted their authority by permitting legal pluralism to preserve stability. Like the Middle Ages, life in fragile states is marked by fragmented and overlapping loyalties to the ethnic group, religious order, political party, individual leaders and other political authorities that compete with the central government for fealty. The weakest states in the world are marred by civil war and insurgencies that do not recognize state territorial boundaries or the government in general. The increasing tendency toward state fragility, failure and disintegration remains a major unmet challenge for the contemporary system—a sign not only of the Westphalian order's decline, but its possible demise.

The Horn of Africa

Globalised neomedievalism is not necessarily only cause for alarm, but its emergence as a new and competing world order is best illustrated by a tragic example: armed conflict in the Horn of Africa. The ongoing conflict in the region of southern Somalia, eastern Ethiopia and northeast Kenya clearly

demonstrates four of the five characteristics of globalised neomedievalism: the technological unification of the world, the regional integration of states, the importance of transnational organisations, and the disintegration of states. In the Horn of Africa, these elements are working in concert to create a globalised neomedieval environment.

Somalia, the Disintegrated State

At the centre of the armed conflict is Somalia, a quintessential failed state with the dubious distinction of topping the *Foreign Policy* and Fund for Peace Failed State Index three years in a row. The territory has been without a functional central government since 1991, making it the longest-running instance of complete state collapse in African postcolonial history. Several dozen national peace conferences have been launched to resuscitate Somalia, including many sponsored by the UN, but none has succeeded. While parts of the north have remained relatively peaceful, including much of the self-declared Republic of Somaliland, the region is rife with fighting, kidnapping, murder, crime and piracy. Since 1991 an estimated 350,000 to 1,000,000 Somalis have died due to armed conflict or its consequences.³⁷¹ Abducting international humanitarian aid workers is practically an industry and piracy has burgeoned since the second phase of the Somali Civil War in 2005, threatening international shipping.³⁷²

³⁷¹ "Somalia Civil War," Global Security, accessed November 10, 2010, <http://www.globalsecurity.org/military/world/war/somalia.htm>.

³⁷² Alexis Masciarelli, "Somalia's Kidnapping Industry," *BBC News*, May 24, 2002.; Jeffrey Gettleman, "Somalia's Pirates Flourish in a Lawless Nation," *The New York Times*, May 31, 2008. For more on general threats in the region, see: Le Sage, *Africa's Irregular Security Threats*.; Ken Menkhaus, "Vicious Circles and the Security Development Nexus in Somalia," *Conflict, Security & Development* 4, no. 2 (2004): 149-165.

According to realist theory, weak states should represent an opportunity for strong states, yet Somalia demonstrates the exact opposite: Strong states cringe at becoming entangled in weak states. In October 1993 Somali clans armed only with small arms and technicals—often pickup trucks with a heavy machine gun or anti-aircraft gun mounted on the truck bed—defeated the most elite United States military forces, consisting of the Army Delta Force, Ranger teams, the 160th Special Operations Aviation Regiment, Navy SEAL Team Six, and Air Force Pararescue-Air Force Combat Controllers. The Battle of Mogadishu, also known as the Day of the Rangers to Somalis, was captured in the book and then the movie *Black Hawk Down*. Following this defeat, the United States left Somalia. The Battle of Mogadishu shows that the Westphalian way of war is not absolute and the hegemony of strong states no longer total.

The defeat also led to a shift in United States foreign policy. The superpower became reluctant intervene in weak states, as illustrated by its inaction regarding the Rwandan genocide. In *A Problem from Hell*, Samantha Power explains that the ‘lesson of Somalia’ was that the Pentagon now feared ‘a small engagement by foreign troops would end up as a large and costly one by Americans’.³⁷³ The experience also gave birth to the so-called Mogadishu Line, a foreign policy term denoting the point at which peacekeeping becomes war; it is sometimes used pejoratively to describe strong states’ aversion to

³⁷³ Samantha Power, *A Problem From Hell: America and the Age of Genocide* (New York: Harper Perennial, 2003), 366.

entering situations in weak states that might drag them into an armed conflict, as with United States president Bill Clinton's refusal to mobilize United States ground troops to curb the conflict surrounding the Bosnian Serb Army in Bosnia and Herzegovina in 1995, as well as his decision to only use airpower in Kosovo during Operation Allied Force in 1999. The violent devolution of Yugoslavia after the end of the Cold War into semi-autonomous regions coined another term in international affairs, Balkanisation, referring to the neomedieval process of state disintegration and fragmentation into smaller stateless polities.

During the 1990s, Somalia Balkanised into at least three semi-autonomous areas: Somaliland in the north, Puntland in the northeast and Somalia in the south. The borders between these informal polities and their neighbours are porous and tensions remain high. Spillover violence and crime from Somalia threatens the stability of neighbouring Ethiopia and Kenya. In an attempt to quell this problem, Ethiopia invaded Somalia in 2006 with troops from Puntland. As Ethiopia's prime minister, Meles Zenawi, explains, the invasion was necessary because Ethiopia faced a direct threat to its own borders and 'Ethiopian defence forces were forced to enter into war to protect the sovereignty of the nation'.³⁷⁴ Two years of irregular warfare ensued and ended in 2009 when Ethiopian troops withdrew, marking another victory for the clans in southern Somalia.

³⁷⁴ Jeffrey Gettleman, "Ethiopia Launches Open War in Somalia," *The New York Times*, December 25, 2006.

Similarly, Somali clans clashed near the Kenya border, destabilizing the region. It is estimated that since the start of 2007, violence has killed at least 21,000 people in Somalia and driven another 1.5 million from their homes, many into neighbouring countries, helping trigger one of the world's worst humanitarian emergencies.³⁷⁵ Over the past twenty years, the Somali refugee camp at Dadaab in Kenya, about 100 kilometres south of the border, has swelled to nearly 300,000 people, making it one of the largest population centres in Kenya and one of the biggest refugee complexes in the world. The UN says Dadaab has 6,000 third-generation refugees, grandchildren of the original arrivals.³⁷⁶ Overcrowding, lack of shelters and insufficient food have made matters worse, and the camp is a frequent recruiting spot for Somali warlords and militants.³⁷⁷

However, consistent with neomedievalism, Somalia's lack of government does not imply a lack of governance. Like the dons of Jamaica, the lack of a formal central government has given rise to local ad hoc efforts of governance that provide communities limited public security, dispute mediation, social services and other political goods. These informal polities range widely in character and effectiveness. The most visible manifestations of these overlapping and competing authorities are Somaliland and Puntland, semi-formal and self-declared administrations. However, even these separatist

³⁷⁵ Ibrahim Mohamed, "Somali Rebel Groups Clash Near Kenya Border," *Reuters*, August 26, 2010.

³⁷⁶ Josh Kron, "Somalia's Wars Swell and Agitate a Refugee Camp in Kenya," *The New York Times*, November 11, 2010.

³⁷⁷ "From Horror to Hopelessness," (Human Rights Watch, March 29, 2009), <http://www.hrw.org/en/reports/2009/03/29/horror-hopelessness-0?print>.

states have sovereignty in name only, for they compete with clan authorities within their territory for authority and allegiance.³⁷⁸ The Rahanweyn, Hawiye, Darod, Isaaq, Dir and their sub-clans all retain a measure of autonomy within Somalia's political mosaic. This 'radical localisation' of politics transpired in the political vacuum left by the central government's collapse in 1991 and failure of the UN Operation in Somalia (UNOSOM I) in 1992–93. Africa observers Ken Menkhaus and John Prendergast describe these independent authorities as 'radically localized Somali polities [that] are fluid in structure and authority, overlapping, and situational in nature'.³⁷⁹ Recent research suggests that this process of political fragmentation is not unique to Somalia: The rise of informal, localized and ad hoc authorities that overlap and compete with one another is a growing phenomenon in areas of protracted state failure and an emblem of neomedievalism.³⁸⁰

War Nexus: the UN, Transnational Actors, and Globalisation

The most significant actors in the Horn of Africa are not states. During the Cold War, Somalia was merely a pawn to the great powers, but as the world changed after the fall of the Berlin Wall, so did the world's interest in Somalia.

³⁷⁸ A single clan dominates Somaliland and therefore the central authority does not compete with clan authorities, as they are the same. This, however, is not the same with Puntland, which does see the central government compete for authority with clan authority. See: Chris Kinsey, et al., "The Impact of Private Security Companies on Somalia's Governance Networks," *Cambridge Review of International Affairs* 22, no. 1 (2009): 147–61.

³⁷⁹ Ken Menkhaus and John Prendergast, *Political Economy of Post-Intervention Somalia*: Somalia Task Force Issue Paper #3 (Horn of Africa Publications, 1995), 1.

³⁸⁰ Ken Menkhaus, *Kenya-Somalia Border Conflict Analysis*, (Washington, DC: USAID, 2005); Koen Vlassenroot and Timothy Raeymaekers, "The Politics of Rebellion and Intervention in Ituri: The Emergence of a New Political Complex?," *African Affairs* 103, no. 412 (2004): 385–412; Georg Lutz and Wolf Linder, "Traditional Structures in Local Governance for Local Development," (unpublished report, Institute of Political Science, University of Berne, Switzerland, 2004).

As the UN promoted its muscular vision of a ‘global transition’ to a new world order founded on humanitarian concern rather than the interests of individual states in *An Agenda for Peace*, televisions around the world were flooded with images of dying Somali children, the victims of drought, famine, brutal warlords and their civil war. Out of a population of 4.5 million people, approximately 300,000 died of malnutrition and at least 1.5 million lives were at immediate risk. Almost 1 million Somalis sought refuge in neighbouring countries and elsewhere, creating a massive refugee crisis for the region.³⁸¹

Somalia was an early test case for the UN’ new world order, and by spring of 1992 the Security Council adopted Resolution 751 establishing UNOSOM I to provide, facilitate and secure humanitarian relief in Somalia, as well as to monitor the first UN-brokered ceasefire of the Somali civil war. Although not a success—hence its sequel UNOSOM II, one year later—it was a ground-breaking Chapter VII peacekeeping mission that served as a prototype for future missions in the Balkans, Africa and elsewhere. Following its failure, President George H.W. Bush sent United States troops to protect relief workers as part of the Unified Task Force (UNITAF) led by the United States in the appropriately named Operation Restore Hope. This transitioned into UNOSOM II, which also ended in failure, and on 4 November 1994, the UN Security Council voted unanimously in Resolution 954 to withdraw all forces by 1995.

³⁸¹ “United Nations Operations in Somalia (UNSOM 1) Background,” United Nations, 2003, accessed November 19, 2010, <http://www.un.org/en/peacekeeping/missions/past/unsom1backgr1.html>.

Since then, Somalia has persisted in a state of civil war and chaos despite additional international efforts to the contrary. The forces that defeated the UN were not state militaries but non-state actors: warlords and their militias. Mogadishu warlord Mohamed Farrah Aidid saw UNOSOM II as a threat to his power, and in June 1993 attacked the mission, killing over eighty peacekeepers. Other casualties followed and finally UNOSOM II left Somalia in 1995, whereupon Aidid claimed to be the president of Somalia. In neomedieval fashion, competing local warlords, such as Ali Mahdi Muhammad, challenged this claim and in 1996 Aidid died of a gunshot wound.

Tending to the victims of the internecine fighting is not the society of states but a consortium of other transnational actors: NGOs, which make up the largest international presence inside Somalia. In 1999 they formed a consortium in Nairobi to coordinate their efforts, which now numbers 191 members.³⁸² It also makes them targets. In 2008 twenty-four aid workers were killed and another ten remain missing, causing many NGOs to suspend programs and withdrawn staff in country.³⁸³ An Amnesty International report found that at least forty Somali human rights defenders and humanitarian workers were killed between 1 January and 10 September 2008, and tersely

³⁸² "Home Page," Somalia NGO Consortium, accessed November 20, 2010, <http://www.somaliangoconsortium.org/index.php>.

³⁸³ "Somalia: NGOs urge international community to protect civilians," *IRIN Africa*, October 7, 2008.; The Media Line, "Aid Workers Begin Quitting Somalia," *The Jerusalem Post*, April 13, 2009.

concludes: ‘The increasing attacks against humanitarian and civil society workers also testify to the international community’s failures in Somalia’.³⁸⁴

The attacks are not limited to land. Piracy off the coast of Somalia threatens humanitarian work and international shipping and has reintroduced *pirate* into the lexicon of contemporary global politics. Since 2005 piracy off the coast of Somalia and especially Puntland has become big business, as they capture ships in the Gulf of Aden and ransom them and their crews back to the owners for millions of dollars. According to the International Maritime Bureau, in 2010 almost half of the world’s pirate attacks occurred off the coast of Somalia and 92 per cent of successful hijackings were Somali, resulting in 948 people taken hostage, a notable increase from 2004 when there were only five recorded attacks in the region.³⁸⁵ The pirates, armed only with light weapons and small boats, can seize large cargo ships, operate 200 nautical miles offshore thanks to mother ships that act as floating bases and can take over a ship within fifteen minutes of being sighted by the ship’s crew, making it difficult for international patrols to respond in time.³⁸⁶ This is significant because some 16,000 ships a year pass through the Gulf of Aden, carrying oil

³⁸⁴ Amnesty International, *Fatal Insecurity Attacks on Aid Workers and Rights Defenders in Somalia* (London: Amnesty International, 2008), 2.

³⁸⁵ The actual figures for 2010 (as of December 22, 2010) are as follows: total attacks worldwide: 430; total hijackings worldwide: 49; total Somalia incidents: 210; total Somalia hijackings: 45; total Somalia hostages taken: 948; current vessels held by Somali pirates: 25 and hostages held by Somali pirates: 586. ‘IMB Piracy Reporting Centre (PRC),’ International Maritime Bureau, December 22, 2010, accessed December 28, 2010, <http://www.icc-ccs.org/home/piracy-reporting-centre/piracynewsfigures>. For more on the rise of pirates in recent years, see: Peter Chalk, *The Maritime Dimension of International Security: Terrorism, Piracy, and Challenges for the United States* (Santa Monica, CA: Rand Corporation, 2008); Ken Menkhaus, ‘Dangerous Waters,’ *Survival* 51, no. 1 (2009): 21-25.; Karl Sörenson, *State Failure on the High Seas: Reviewing the Somali Piracy* (Sweden: Swedish Defence Research Agency (FOI), 2008).

³⁸⁶ Roger Middleton, *Piracy in Somalia: Threatening Global Trade, Feeding Local Wars* (London: Chatham House, 2008), 4.

from the Middle East and goods from Asia to Europe and North America, making it one of the most important trade routes in the world. Consequently piracy has menaced international trade and slowed humanitarian re-supply to the region. It could cause a major environmental disaster in the Gulf of Aden if a tanker is sunk, run aground or set on fire.

But not all the violence in Somalia is for profit. One of the most powerful authorities in Somalia is the internationally notorious group al-Shabaab (Movement of Warrior Youth), an Islamic armed group that has successfully waged war against the Somali transitional federal government and its Ethiopian and Ugandan supporters since 2006.³⁸⁷ In February 2009 the group killed eleven Burundian soldiers who were a part of the African Union peacekeeping mission.³⁸⁸ The organisation also can project force beyond its borders, launching a coordinated dual terrorist attack in Kampala, Uganda in July 2010 that killed more than seventy people.³⁸⁹ Analogous to al-Qa'ida's 2004 Madrid bombings, the Kampala bombings by al-Shabaab sent a clear strategic message to withdraw troops from the AU peacekeeping mission.

There is one reason the world knows about this non-state actor waging an intrastate war in the hinterlands of Somalia, and that reason is globalisation. NGOs have used globalised media to highlight the humanitarian crisis in the country, bolster their own legitimacy by enacting the human rights agenda and

³⁸⁷ Other names for al-Shabaab include: the Harakat Al Shabaab al-Mujahidin; al-Shabab; Al Shabaab; the Youth; Mujahidin al Shabaab Movement; Mujahideen Youth Movement; Mujahidin Youth Movement.

³⁸⁸ Stephanie Hanson, "Al-Shabaab," *Council on Foreign Relations Backgrounders*, July 28, 2010.

³⁸⁹ Josh Kron and Mohammed Ibrahim, "Islamists Claim Attack in Uganda," *The New York Times*, July 12, 2010.

nettle international organisations and states to do more. Following an especially fraught period of insecurity, drought and record-high food prices in 2008, some 3.25 million Somalis were in need of emergency aid from outside Somalia. A coalition of fifty-two NGOs banded together to flood international media and world capitals with the message of to drum up the needed assistance. In their statement, they echo the prerogatives of R2P: ‘The international community has completely failed Somali civilians. We call on the international community to make the protection of Somali civilians a top priority now’.³⁹⁰ World news organisations such as CNN and the BBC even dedicate special watch pages on their websites to al-Shabaab.³⁹¹ NGOs’ ability to galvanize the global media and mobilize popular support for the humanitarian cause of Somalia is an example of their de facto political power in the international system.

The darker side of globalisation has also fostered a bond between al-Shabaab and al-Qa’ida. The strongest tie between the two groups is ideological. Using the internet, a senior al-Shabaab leader released a video in September 2008 praising Osama bin Laden and linking Somalia to al-Qa’ida’s global operations.³⁹² A few months later Ayman al-Zawahiri, al-Qa’ida’s second-in-command, reciprocated with a video praising al-Shabaab’s seizure of the

³⁹⁰ “Somalia: NGOs urge international community to protect civilians.”

³⁹¹ See: “Al-Shabaab,” CNN, accessed November 14, 2010, http://topics.cnn.com/topics/al_shabaab; Harper, Mary, “Profile: Somalia’s Islamist ‘lads,’” *BBC News*, March 21, 2008, accessed November 14, 2010, <http://news.bbc.co.uk/2/hi/7307521.stm>.

³⁹² Nick Grace, “Shabaab Reaches Out to Al Qaeda Senior Leaders, Announces Death Al Sudani,” *The Long War Journal*, September 2, 2008, accessed November 19, 2010, http://www.longwarjournal.org/archives/2008/09/shabab_reaches_out_t.php.

Somali town of Baidoa and assured followers that al-Qa'ida would 'engage in jihad against the American-made government in the same way they engaged in jihad against the Ethiopians and the warlords before them'.³⁹³ The United States added al-Shabaab to its list of foreign terrorist organisations in February 2008 and maintain that senior al-Shabaab leaders have trained and fought with al-Qa'ida in Afghanistan.³⁹⁴

In an example of the technological unification of the world, al-Shabaab uses the internet to successfully recruit foreign fighters from around the world—including from within the United States and United Kingdom. From 2007 to 2009, twenty men left Minnesota, California and Alabama to join al-Shabaab; all but one were of Somali heritage.³⁹⁵ In June 2010, two United States men from New Jersey were arrested at the airport en route to Somalia to join al-Shabaab. They were inspired by the Yemen-based United States cleric Anwar al-Awlaki,³⁹⁶ who has been described as the 'bin Laden of the Internet'; he also inspired United States army major Nidal Malik Hasan to shoot fellow soldiers at Fort Hood, Texas, killing thirteen and wounding thirty people.³⁹⁷ United States Attorney General Eric Holder calls this a 'deadly pipeline that

³⁹³ Bill Roggio, "Zawahiri Praises Shabaab's Takeover of Southern Somalia," *The Long War Journal*, February 24, 2009, accessed November 19, 2010, http://www.longwarjournal.org/archives/2009/02/zawahiri_praises_sha.php.

³⁹⁴ "Al-Shabaab," National Counterterrorism Center, accessed November 14, 2010, http://www.nctc.gov/site/groups/al_shabaab.html.

³⁹⁵ "14 Charged With Aiding Terror Group Al-Shabab," *CBS News*, August 6, 2010.

³⁹⁶ Liam Stack, "New Jersey Men Arrested At JFK on Way to Join Al Shabab in Somalia," *The Christian Science Monitor*, June 7, 2010.

³⁹⁷ Andrea Elliott, "The Jihadist Next Door," *The New York Times*, January 27, 2010.; Aamer Madhani, "Cleric Al-Awlaki dubbed 'bin Laden of the Internet'," *USA Today*, August 25, 2010.; "Army Adds Charges Against Rampage Suspect: 32 Counts of Attempted Murder in Addition to Earlier Murder Charges," *Associated Press*, December 2, 2009.

has routed funding and fighters to al-Shabaab from cities across the United States' and represents 'a disturbing trend'.³⁹⁸

However, all of the above does not mean that Somalia is lawless; a neomedieval durable disorder pervades much of the country as Somali warlords and armed groups impose order in their own, albeit brutal, manner. As of 2010, al-Shabaab controls most of south and central Somalia, including some of Mogadishu, and its influence extends across the Somali borders into neighbouring Ethiopia and Kenya. In this area, carved out of the 'sovereign' territory of existing states, al-Shabaab maintains the monopoly of force and provides some political goods to the people under its own extreme version of sharia. With the exception of Mogadishu, much of this area is peaceful.

Al-Shabaab also provides governance. In 2008 it began to reach out to the public in a series of town visits that the International Crisis Group describes as 'well choreographed, with clerics addressing public rallies and holding talks with local clan elders'.³⁹⁹ They also have handed out food and money to the poor, provided criminal justice through mobile sharia courts and attempted to settle local disputes. Even Human Rights Watch concedes that 'in many areas, al-Shabaab rule has brought relative peace and order that contrasts dramatically with the chaos in Mogadishu'.⁴⁰⁰ Horn of Africa expert Andre Le

³⁹⁸ "Attorney General Eric Holder Holds a Press Conference Regarding Al-Shabaab Indictments," Department of Justice, August 5, 2010, <http://www.justice.gov/ag/speeches/2010/ag-speech-100805.html>.

³⁹⁹ International Crisis Group, *Somalia: To Move Beyond the Failed State, Africa Report 147* (International Crisis Group, 2008), 12.

⁴⁰⁰ Human Rights Watch, *Harsh War, Harsh Peace: Abuses By Al-Shabaab, the Transitional Federal Government, and AMISOM in Somalia* (Human Rights Watch, 2010), 2.

Sage has identified four separate systems of justice in Somalia following its descent into chaos in 1991: the centralized formal judiciary structures created through international peace processes; the traditional, clan-based system known as *xeer*; sharia courts in urban areas, particularly Mogadishu; and civil society and private-sector initiatives, including those established by warlords. What makes them essentially neomedieval is that they coexist as ‘multiple, overlapping and often contradictory sources of law’.⁴⁰¹

In Somalia’s continuing armed conflict, none of the major actors is a state. The primary actors are international organisations such as the UN, which justifies violence on humanitarian grounds in the guise of Chapter VII peacekeeping missions. Abetting its mandate are transnational NGOs, which provide the bulk of external assistance to the Somalis as well as highlight the problem in international politics. The actual battles are waged not between national military units but between UN blue-helmet peacekeepers and militants who serve warlords. Victory is determined as much in the realm of ideology as physical space.

Al-Shabaab is also a globalised enemy, taking full advantage of the technological unification of the world to resource and recruit its ranks as well as strike alliances with simpatico groups like al-Qa’ida in Afghanistan. The most famous fight between a professional military and non-state actors was the Battle of Mogadishu, which ended in decisive victory for the low-tech clan

⁴⁰¹ Andre Le Sage, *Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives* (Geneva: Centre for Humanitarian Dialogue, 2005), 7.

militias over the United States military's most elite units. The formalized international relations between states as they govern world events have been completely absent from this twenty-year scenario. Somalia represents the antithesis of state-centric international relations theory and demonstrates the emergence of globalised neomedievalism in world affairs.

Medieval Solutions to Modern Problems

The neomedieval situation in Somalia reinforces the obvious but often overlooked observation that local communities are not passive in the face of state failure and insecurity, but establish political arrangements that minimise risk and maximise stability in the face of Hobbesian anarchy.⁴⁰² This governance without government creates a durable disorder that may hold valuable insights beyond the borders of Somalia. While state-building efforts in Afghanistan and Iraq, as well as UN peacekeeping missions around the world, toil in Sisyphean frustration to create Westphalian states where none existed before, an alternative development model based on the realities of neomedievalism might prove more apt. Such a model would recognize the various overlapping authorities and allegiances in a region, and work with them to achieve security, stability and development.

⁴⁰² For more on this idea, see: Ken Menkhaus, "Governance Without Government in Somalia: Spoilers, State Building, and the Politics of Coping," *International Security* 31, no. 3 (2007): 74-106. Also see: Peter T. Leeson, "Better Off Stateless: Somalia Before and After Government Collapse," *Journal of Comparative Economics* 35, no. 4 (2007): 689-710; Donald F. Kettl, "The Transformation of Governance: Globalization, Devolution, and the Role of Government," *Public Administration Review* 60, no. 6 (2000): 488-497; Peter D. Little, *Somalia: Economy Without State* (Bloomington: Indiana University Press, 2003).

Somalia expert Ken Menkhaus recommends a more neomedieval approach to rebuilding the country. He suggests that the best hope for Somalia lies in establishing it as a ‘mediated state’ that harnesses the neomedieval nature of the situation. The notion of ‘mediated’ and ‘unmediated’ states originates with Michael Barnett and Christoph Zuercher. An unmediated state corresponds to the Westphalian model: strong state institutions govern central features of the economy and society. Mediated states exist when elites rule instead of institutions through alliances with local notables, akin to the feudal lords of medieval Europe.⁴⁰³ The latter are not ideal choices for governments since they are inherently disorganised, illiberal and chaotic, but they are often the best of bad options for failed states existing in a neomedieval condition where attempts to instill an unmediated state may prove impossible.

The concept of the mediated state stems from the Middle Ages when, as Menkhaus explains, ‘ambitious monarchs with limited power were forced to manipulate, manoeuvre, and make deals with local rivals to extend their authority’.⁴⁰⁴ Those rivals often ‘mediated’ authority as over-powerful purveyors of royal authority, as ‘private’ subjects exercising ‘public’ jurisdiction or as members of supranational bodies such as the Church.⁴⁰⁵ This created a situation in medieval France akin to neomedieval Somalia: ‘a nation

⁴⁰³ Michael Barnett and Christoph Zuercher, “The Peacebuilders’ Contract: How External Statebuilding Reinforces Weak Statehood,” in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, ed. Roland Paris and Timothy D. Sisk (New York: Routledge, 2009), 27.

⁴⁰⁴ Menkhaus, “Governance Without Government in Somalia,” 103.

⁴⁰⁵ Swen Voekel, “‘Upon the Suddaine View’: State, Civil Society and Surveillance in Early Modern England,” *Early Modern Literary Studies* 4, no. 2 (1998): 04-2, quoted in: Ibid, 103.

characterized by parcellized and overlapping jurisdictions, multiple legal codes, and a plethora of internal tariffs and taxes'.⁴⁰⁶

Given this reality, a state-building strategy based on neomedievalism may prove more effective than the Westphalian model. According to Menkhaus, establishing Somalia as a mediated state would involve creating a limited central government that relies on a diverse range of local authorities to execute core functions of government and mediate relations between local communities and the state.⁴⁰⁷ This partnership between a weak central government and semi-autonomous local authorities might more successfully resuscitate the failed state than conventional Westphalian models of state building, since it harnesses pre-existing local authorities to deliver good governance rather than ignoring or disbanding them—the standard practice in contemporary peacekeeping missions.

Historically, the international community dismisses 'subnational' politics as part of the problem of state failure, and is quick to abandon them the instant a national government is declared. However, in areas where neomedievalism is firmly rooted, establishing a Westphalian state may be unattainable, resulting in state building failure. Le Sage recommends that Somalia should not seek to adopt a single justice system to the detriment of the others and recognize that the 'multiplicity of systems has afforded Somalis

⁴⁰⁶ This quote describes medieval France, not modern Somalia. Voekel, "Upon the Suddaine View," quoted in: Ibid, 104.

⁴⁰⁷ Ibid, 103. Menkhaus also credits Michael Barnett for "identifying the mediated state concept as a tool for understanding problems of contemporary state building", 32.

options in responding to their predicament of state collapse, and each form of justice has its own advantages'.⁴⁰⁸ Too often well-intentioned peacekeeping missions attempt to create 'unmediated' Westphalian states in neomedieval environments that are doomed to fail since the two conditions are incompatible, as exemplified by the dismal state-building record in Somalia since 1991. Consequently, Menkhaus concludes, 'the problem in Somalia is not that state building itself is doomed to fail; it is rather that the type of state that both external and local actors have sought to construct has been unattainable and has as a consequence repeatedly set up Somali political leaders and their external mediators for failure'.⁴⁰⁹

Precisely how the centralized government can coexist with prevailing local authorities would be uniquely a matter for Somalis to determine, town by town and district by district. Such a process promises to be messy, but there is precedent for success. The lawless border region of Kenya, Ethiopia, Somalia, Sudan and Uganda has produced years of bloodshed rivalling civil war. Unable to fully police its borders, the Kenyan government in the late 1990s partnered with coalitions of local NGOs, traditional leaders and other civic groups to manage and prevent armed conflict through peace and development committees. Following this, public security and rule of law substantially improved, giving the Kenyan government the capacity to extend its authority

⁴⁰⁸ Le Sage, *Stateless Justice in Somalia*, 8.

⁴⁰⁹ Menkhaus, "Governance Without Government in Somalia," 105–106.

into its frontier zones with the help of mediated actors.⁴¹⁰ Similarly, governments and peacekeepers alike increasingly use community policing in fragile states to help provide governance in Afghanistan, the DRC and Liberia.⁴¹¹ In this way, neomedieval state building harnesses the overlapping authorities and allegiances of local actors to achieve good governance by working toward a common goal. Furthermore, a neomedieval approach reassures potential peace spoilers by reducing the threat of an overly ambitious and strong central government. Unlike attempts to build unmediated Westphalian states, a neomedieval approach co-opts spoilers by aligning the interests of the weak central government with local authorities and vice versa, ideally creating a symbiotic relationship to motivate stability. This approach may be the only way to rebuild failed states that almost always exist in highly neomedieval conditions.

This chapter examined the evidence for globalised neomedievalism, and found some substantiation for its presence as an emerging world order since the Cold War; specifically this chapter surveyed four of the five characteristics of neomedievalism that, according to Bull, would indicate the presence of neomedievalism: the technological unification of the world, the regional integration of states, the importance of transnational organisations,

⁴¹⁰ Ibid, 104.; Menkhaus, “Kenya-Somalia Border Conflict Analysis.”

⁴¹¹ See for example: Robert M. Perito, “Afghanistan’s Police-the Weak Link in Security Sector Reform,” in *Revisiting Border Between Civilians and Military: Security and Development in Peace Operations and Post-conflict Situations*, org. Eduarda Hamann (Rio de Janeiro: Fundação Konrad Adenauer, 2009), 79-87; Dominique Wisler, “Community Policing” (paper presented at the UNDP workshop on Community Security and Social Cohesion, Montreux, 2010); “United Nations Mission in Liberia’s Police Assist in the Development of Security and Rule of Law in Liberia,” United Nations, accessed November 12, 2010, http://www.un.org/en/peacekeeping/sites/police/field/story_005.shtml.

and the disintegration of states. These areas have been well covered in scholarship. Conspicuously absent from the literature, however, is a rigorous analysis of the last characteristic of neomedievalism: the restoration of private international violence. Since the end of the Cold War, private militaries have made a fierce comeback, and are now a multi-billion-dollar globalised industry. Despite the volumes of ink spilled on the topic in recent years, the industry remains murky because it is notoriously opaque to outside investigators. Consequently, little is known about how and why these private armies exist. We know why weak states use or are exploited by armed transnational actors, as epitomized by narco-states. But why have strong states such as the United States elected to use private armies in war? How has this changed warfare, and what are the implications for security in the twenty-first century? The next chapter explores the return of private armies after their multi-century hiatus since the Middle Ages, locating the missing piece of the puzzle regarding the emergence of a globalised neomedieval world order.

Chapter 3

The Return of Private Armies

The sinews of war are unlimited money

— Cicero

On 27 April 1522, two armies faced each other at dawn across a soggy field ready for battle at a manor park of Bicocca, a small town six kilometres north of Milan. On one side stood the combined forces of France and Venice, numbering over 20,000 troops, including *condottiero* Giovanni de' Medici's Black Bands and 16,000 dreaded Swiss mercenaries. For two centuries, Swiss companies were the scourge of the European battlefield, overtaking superior forces with deadly twenty-one-foot steel-tipped pikes and precision formations that could run down heavily armoured knights—as the doomed Duke of

Burgundy could attest to—making them the most sought-after private armies on the market.⁴¹²

Opposing the combined army were the comparatively meagre Spanish-Imperial, Milanese and papal forces, which numbered only 6,400 but included *landsknechts* or German mercenary pikemen.⁴¹³ The Swiss companies and *landsknechts* were more than mere business rivals and held special contempt for each other. The Holy Roman Emperor Maximilian I formed the first *landsknechts* regiments several decades earlier and patterned them after the Swiss companies, who regarded them as cheap copies purloining their brand. Consequently, no quarter was given when these mercenary rivals met on the battlefield.

The attack commenced at dawn. The French advanced on the outnumbered Spanish imperial forces with two columns of Swiss mercenaries, numbering a few thousand each, bearing down on the *landsknechts* and Spanish *arquebusiers*—soldiers using a predecessor of the musket—who stood behind a sunken road and an earthen rampart. As the Swiss advanced, their French masters ordered them to halt and wait for the French artillery to bombard the imperial defences first, but the Swiss did not. Perhaps the Swiss captains

⁴¹² The Duke of Burgundy known as Charles the Bold, also called Charles the Rash, met his end at the Battle of Nancy on 5 January 1477, bringing to a conclusion the Burgundian Wars (1474–77) between the dukes of Burgundy and the kings of France. A year earlier, Charles had besieged a Swiss garrison at Grandson in Switzerland, and promised them safe passage if they surrendered their castle. However, Charles betrayed them and hung or drown all 412 men in an execution requiring four hours. A year later at the Battle of Nancy the Swiss had neither forgotten nor forgiven this perfidy. When Charles's naked and disfigured body was found frozen in a riverbed several days after the battle, only his physician was able to identify him. His head had been cleft in two by a halberd, multiple lances were lodged in his stomach and loins and his face was so badly mauled by wild animals that he was beyond recognition.

⁴¹³ Their ranks included many non-Germans too.

doubted the artillery would have any effect on the earthworks; perhaps the Swiss did not trust the French owing to an earlier pay dispute regarding their contract; perhaps it was the aggressive Swiss push-of-pike strategy that advanced without support of firearms; perhaps it was due to rivalry between the two Swiss columns, one from the rural cantons and the other from Bern and urban cantons; or perhaps it was because of their 'blind pugnacity and self-confidence', as a French eyewitness later remarked.⁴¹⁴ Either way, the Swiss moved swiftly across the open field without regard for consequence.

As soon as the Swiss were in range of the enemy cannon they began to take massive casualties. With nowhere to go but forward, they moved toward the Spanish positions but came to a deadly halt when they reached the sunken road that acted as a ditch and the tall rampart behind it. Atop that rampart were the *landsknechts* who mercilessly attacked their trapped rivals while the *arquebusiers* fired downward into the sunken road, massacring the Swiss. Retreating back across the field they lost more men to cannon barrage. By the time they reached French lines they had suffered more than 3,000 casualties, including twenty-two captains and all but one of the French commanders who accompanied the Swiss assault. The battle was lost and three days later the Swiss abandoned the campaign altogether, marching home to their cantons and marking the end of Swiss dominance in the mercenary market. As Francesco Guicciardini, a contemporary historian, wrote, 'they went back to their mountains diminished in numbers, but much more diminished in

⁴¹⁴ Charles Oman, *A History of the Art of War in the 16th Century* (London: C. Oman, 1937), 180.

audacity; for it is certain that the losses which they suffered at Bicocca so affected them that in the coming years they no longer displayed their wonted vigour'.⁴¹⁵ From this battle comes the Spanish word *bicoca*, meaning a bargain or something acquired at little cost.⁴¹⁶

The return of private armies may seem absurd to those brought up to view war as fought only between states through their public armies. However, this reigning assumption is a modern idealisation that does not match historical reality. Throughout most of history military force was marketised and non-state violence dominated the international system. Being a mercenary is often referred to as the second-oldest profession.⁴¹⁷ Individuals and groups regularly employed private armies to pursue their objectives—political power, wealth, vendetta—creating an international market for force in which military might was traded as a commodity and the nationality of suppliers or purchasers meant little. As Jeffrey Herbst observes, 'the private provision of violence was a routine aspect of international relations before the twentieth century'.⁴¹⁸ This market came to an end with the rise of the Westphalian system as states consolidated the monopoly of violence in the marketplace by defeating or banning all armed competitors, especially mercenaries. Public armies replaced private ones and mercenaries were outlawed.

⁴¹⁵ Ibid, 184.

⁴¹⁶ Spanish Royal Academy, *Diccionario De La Lengua Espanola*, Spanish Edition, 2 Volumes (Espasa Calpe Mexicana, S.A., 2001).

⁴¹⁷ See for example: Alan Saunders, *Mercenaries: A History of the Second Oldest Profession* (Acovianbooks, 2010).

⁴¹⁸ Jeffrey Herbst, "The Regulation of Private Security Forces," in *The Privatisation of Security in Africa*, ed. Greg Mills and John Stremlau (Pretoria: South Africa Institute of International Affairs, 1999), 117.

At the dawn of the twenty-first century, however, the international market for force is reemerging after a four-century hiatus; as Christopher Coker noted in 1999, ‘the privatisation of violence represents a global trend’.⁴¹⁹ Some weak states have lost their monopoly of force to non-state rivals, such as militants, mercenaries and insurgents. But strong states, the United States among them, have voluntarily reintroduced private violence into warfare by hiring private military companies (PMCs) such as Blackwater, DynCorp International and their many competitors. In doing so, the United States has inadvertently hatched a new private military industry with a future in international relations that is anything but certain, yet it will shape peace and security in the decades to come. This chapter briefly charts the transformation of private armies in the ‘West’ from honourable profession to black-market pariah to honourable profession once again, revealing the final piece of Bull’s formulation of neomedievalism: the restoration of private international violence.

The Market for Force

Mercenaries are as old as war itself. Today, the label connotes vileness, treachery and murder, but it was not always so. Being a mercenary was once considered an honest albeit bloody trade, and employing mercenaries to fight wars was the norm rather than the exception throughout early military history:

⁴¹⁹ Christopher Coker, “Outsourcing War,” *Cambridge Review of International Affairs* 13, no. 1 (1999): 109.

King Shulgi of Ur's army (2094–47 BC); Xenophon's army of Greek mercenaries known as the Ten Thousand (401–399 BC); and Carthage's mercenary armies in the Punic Wars against Rome (264–146 BC), including Hannibal's 60,000-strong army, which marched elephants over the Alps to attack Rome from the north.⁴²⁰ When Alexander invaded Asia in 334 BC his army included 5,000 foreign mercenaries and the Persian army that faced him contained 10,000 Greeks.⁴²¹ In fact, Greek mercenaries were core to his military campaign—on all sides of the conflict.⁴²² Rome relied on mercenaries throughout its thousand-year reign, and Julius Caesar was repeatedly saved, even at Alesia, by mounted German mercenaries in his war against Vercingetorix in Gaul. Nearly half of William the Conqueror's army in the eleventh century were mercenaries, as he could not afford a large standing army and there were not enough nobles and knights to accomplish the Norman conquest of England.⁴²³ In Egypt and Syria the Mamluk Sultanate (1250–1517) was a regime of mercenary slaves who had been converted to Islam. From the late tenth to the early fifteenth century Byzantine emperors surrounded themselves with Norse mercenaries known as the Varangian Guard, who were known for their fierce loyalty, prowess with the battle axe

⁴²⁰ John Prevas, *Hannibal Crosses the Alps: The Invasion of Italy and the Punic Wars* (USA: Da Capo Press, 2001), 86.

⁴²¹ Pierre Jouguet and M.R. Dobie, *Macedonian Imperialism and the Hellenization of the East* (New York: Alfred A. Knopf, 1928), 12-14.

⁴²² Victor Davis Hanson, *Why the West Has Won: Nine Landmark Battles in the Brutal History of Western Victory* (New York: Faber & Faber, 2001).

⁴²³ Hugh M. Thomas, *The Norman Conquest: England After William the Conqueror* (Lanham, MD: Rowman & Littlefield, 2008), 46, 77-78.

and ability to swill copious amounts of alcohol.⁴²⁴ In Europe, the *condottieri*, Swiss companies, *landsknechts*, Bretons, Gascons, Picards and other mercenaries dominated warfare from the thirteenth to the sixteenth centuries. The list continues; as Tony Lynch and A.J. Walsh remark, it is clear that ‘for at least three thousand years mercenarism has been a feature, often the major feature, of institutions of organised violence’.⁴²⁵

The way of war began to change in the first half of the seventeenth century in Europe, particularly during the Thirty Years’ War (1618–48). In the hundred years leading up to 1650, warfare became increasingly violent as armies grew larger, weapons more destructive and consequences more severe. The damage to Germany in the Thirty Years’ War was, in some ways, more extensive than that of World War II. It lost up to a third of its population.⁴²⁶ The reliance on mercenaries was ubiquitous and the overall cost of warfare was little more than the *solde* or pay due to mercenaries, from which the word *soldier* is derived. Battles were fought mostly between hired units, and ‘by and large, the military forces of every country consisted of mercenaries’.⁴²⁷ For example, some 40,000 Scotsmen—perhaps 15 per cent of the total males in Scotland—journeyed to central Europe to fight in the Thirty Years’ War.⁴²⁸ The majority of Sweden’s military was mercenary, which is significant given

⁴²⁴ Mark C. Bartusis, *The Late Byzantine Army: Arms and Society, 1204-1453* (Philadelphia: University of Pennsylvania Press, 1997), 272-275.

⁴²⁵ Tony Lynch and A.J. Walsh, “The Good Mercenary?,” *Journal of Political Philosophy* 8, no. 2 (2000): 133.

⁴²⁶ Coker, “Outsourcing War,” 98.

⁴²⁷ Michael Roberts, *The Military Revolution, 1560-1660* (Belfast: Boyd, 1956), 15; Michael Howard, *War in European History* (Oxford: Oxford University Press, 2009), 29.

⁴²⁸ Geoffrey Parker, *Europe in Crisis, 1598-1648* (Oxford: Wiley-Blackwell, 2001), 17.

that it was a great power in the conflict and King Gustavus Adolphus was one of the great innovators of manoeuvre warfare. At the Battle of Breitenfeld, only 20 per cent of Sweden's army consisted of Swedes, and at the Battle of Lutzen the figure was 18 per cent. European armies were an amalgamation of mercenaries, and the concept of patriotism was unconnected to military service.

By the middle of the seventeenth century, the conduct of violence was a capitalist enterprise no different than any other industry. According to historian Michael Howard, 'war became the biggest industry in Europe'.⁴²⁹ Major engagements during this period typically involved 50,000 troops, as evidenced by the battles of White Mountain (1620), Breitenfeld (1631), Lützen (1632), Nördlingen (1634), Wittstock (1636) and Rocroi (1643). To meet the rising demand for troops, a new breed of conflict entrepreneur emerged who outfitted entire regiments and leased them to those in need of martial services. These 'rental regiments' allowed rulers to wage war on a grand scale without undue administrative or fiscal reform, effectively lowering the barrier to entry in war and encouraging ever larger battles. Examples of such entrepreneurs include Count Ernest Mansfeld, who raised an entire army for the Elector Palatine; Amsterdam businessman Louis de Geer, who sourced Sweden a complete operative navy; the Genovese Marquis of Spinola, who managed the king of Spain's military affairs in the Netherlands; Bernard von Weimar, who produced armies for Sweden and then France; and most famously Count

⁴²⁹ Howard, *War in European History*, p. 131.

Albrecht von Wallenstein, who offered his services plus an army to the Holy Roman Emperor Ferdinand II and eventually became the supreme commander of the Habsburg monarchy's armies and the richest man in Europe.⁴³⁰

The havoc was not limited to the battlefield, as the behemoth armies sustained themselves by pilfering the countryside, sometimes violently and often lawlessly, and the tyranny of plunder wore heavily on civilian populations. Rectifying the social damage caused by en masse larceny was expensive for employers, who consequently attempted to station troops away from population centers and ideally deploy them in offensive campaigns in foreign lands.⁴³¹ However, this was not always possible. The populace of Brandenburg complained bitterly that the mercenaries guarding them were far more terrible than the enemy Swedes outside the city walls, and they begged their ruler Frederick William, the Great Elector, to disband the unruly companies. Assessing the situation, the Elector wrote in April 1641:

We find that our military forces have cost the country a great deal and done much wanton damage. The enemy could not have done worse. We do not see that we have had, or are likely to have, the least benefit from their services. Therefore we have resolved to keep only what is necessary as a garrison for our fortresses.⁴³²

The Elector's sentiments were not unique. The unrestrained actions of mercenaries caused widespread destruction and misery in the course of the

⁴³⁰ Ibid 29.

⁴³¹ Jeremy Black, *European Warfare, 1660-1815* (New Haven: Yale University Press, 1994), 54, 61.

⁴³² Sidney B. Fay, "The Beginnings of the Standing Army in Prussia," *The American Historical Review* 22, no. 4 (1917): 767.

Thirty Years' War. These mercenary companies were often intractable and could usurp their employers if left unchecked. Additionally, because they were recruited only during a military emergency and dismissed immediately at its conclusion, they frequently roamed the countryside as brigands while awaiting new contracts. These and other bitter experiences taught both rulers and ruled that they could not entrust the protection of their homeland to unreliable mercenaries. At the conclusion of the Peace of Westphalia in 1648 leaders of all sides tacitly agreed that an open market for force was too destructive and expensive to continue, and that public armies should replace private ones; that is, the state should take over.

The State Monopolises Force

Shortly after the Peace of Westphalia, the Holy Roman Emperor, Ferdinand III, established the first peacetime field army in the history of the monarchy. He issued a decree in 1649 announcing that of the fifty-two regiments raised during the great war, nine infantry (including both pike and shot) and ten cavalry (one of dragoons and nine of cuirassiers) would not be demobilised with the rest, but remain as permanent units.⁴³³ Previously there had been small attempts to create standing public armies. The force of King Charles VII of France in 1445 consisted of 9,000 French soldiers. Rudolf II of Austria had three winter regiments in 1598 at key fortifications along his frontier. Hungarian king Matthias Corvinus's Fekete Sereg, or Black Army, captured

⁴³³ John A. Mears, "The Thirty Years' War, the "General Crisis," and the Origins of a Standing Professional Army in the Habsburg Monarchy," *Central European History* 21, no. 2 (2008): 126.

parts of Austria and Bohemia in the fifteenth century.⁴³⁴ However, these antecedents did not attempt to dislodge private armies and take over the market for force. The size, scale and scope of Ferdinand's ambitions were unprecedented, as he sought to expunge the need for mercenaries and thus began the state's monopoly on violence, the end of private armies and the beginning of modern public armies.

The transition from private to public armies was gradual, spanning two centuries. By 1650 it was clear that on-demand military services were no longer economical to rulers, given the destruction mercenaries wrought upon the countryside and the threat they posed to their employers. What was needed was a public army of systematically trained and disciplined professionals, maintained in peace and war, winter and summer, with a regular means of obtaining supplies and replacements and paid by and loyal to the state, unequivocally. Following the 'Thirty Years' War, the Great Elector of Brandenburg-Prussia retained 4,000 soldiers and increased that number to 12,000 after the Northern War (1655–60). Wurttemberg, Hesse, Saxony and Bavaria undertook similar efforts.⁴³⁵ France formed a standing army by absorbing most of Louis XIV's officers into the *gendarmerie* and establishing six standing infantry units that endured after the Peace of the Pyrenees (1659). These regiments enabled the Sun King to mobilise his armies swiftly in the War of Devolution and overrun the Habsburg-controlled Spanish Netherlands

⁴³⁴ Ibid, 124–126.

⁴³⁵ F.L. Carsten, *Princes and Parliaments in Germany* (Oxford: Clarendon Press, 1959), 74–99, 182–83, 239–40, 397–403, 409–10.

and the Franche-Comté, encouraging him to create an even larger standing army at the end of the war in 1668.⁴³⁶ Concurrently in England, Oliver Cromwell's New Model Army was a prototype standing army, and after the Restoration of 1660 Charles II was permitted to retain five regiments from this force, totaling about 3,000 men, to garrison his fortresses as royal guards.⁴³⁷ These early efforts were the germ of the large national militaries centuries later. As military historian John Mears explains, 'the nature of military conflict in the seventeenth century provided a further impetus for the creation of permanent armed forces.... giving them an appearance which men in the twentieth century can recognise as being distinctly modern'.⁴³⁸

Technological improvements in weaponry helped make public armies possible. Previously, mercenaries provided not only on-demand military services but highly specialised ones too. The Swiss Guard delivered precision tactics that required extensive training and drill to employ effectively in the heat of battle. Similarly, the heavy crossbow known as the *balestrieri*—with armour-piercing bolts—required a significant investment of time and training to use with any skill in combat, especially against moving or ranged targets. The cost of developing similar in-house capabilities for states was simply too high, which is why they outsourced these needs in the Middle Ages. However, this became possible with the advent of the musket, which could punch holes

⁴³⁶ Oliver L. Spaulding, et al., *Warfare: A Study of Military Methods From the Earliest Times* (Manchester, NH: Ayer Company Publishing, 1972), 506.

⁴³⁷ Clifford Walton, *History of the British Standing Army* (London: Harrison and Sons, 1894), 1-14.

⁴³⁸ John A. Mears, "The Emergence of the Standing Professional Army in Seventeenth-Century Europe," *Social Science Quarterly* 50, no. 1 (1969): 115.

in knights' armour; the declining price of gunpowder made training cheaper and less time consuming, giving rise to the possibility of the citizen-soldier.⁴³⁹ Combining this with the practice of conscription, rulers discovered that they could muster large national armies without the risks associated with mercenaries. The armies that swept across Europe under Napoleon's command were mostly made up of French citizens, and with their decisive victory over and occupation of Prussia following the twin battles of Jena and Auerstedt in 1806, Prussia quickly adopted a citizen-soldier model and rejoined the campaign later to help defeat the French forces. As the Napoleonic wars continued, the model eventually became the norm for all powers.⁴⁴⁰

Administrative changes also helped put private armies out of business. Sustaining a large standing army is complicated and expensive, requiring a considerable bureaucracy to collect taxes and administer revenue. Over time, large centralised state bureaucracies replaced feudal lordships in the machinations of governance and especially military administration. Louis XIV established a sophisticated bureaucracy to manage state affairs at the expense of the estates and the great nobles. Influenced by Swedish ideas and the reforms of Gustavus Adolphus, Secretary of State for War Michel le Tellier and his son the Marquis de Louvois managed the *intendants de l'armée* that reorganised the French army into a pyramidal structure of responsibility and authority, led by generals and managed by bureaucrats, which grew to 400,000

⁴³⁹ Robert L. O'Connell, *Of Arms and Men: A History of War, Weapons, and Aggression* (Oxford: Oxford University Press, 1989), 111.

⁴⁴⁰ W.H. McNeill, *History of Western Civilization: A Handbook* (University of Chicago Press, 1986): 534.

soldiers.⁴⁴¹ Modeling this bureaucracy, the Great Elector created the Generalkriegskommissariat in 1655 with subordinate officials in each of his various territories that eventually supplanted the estates regarding all matters of finance and taxation connected with the army.⁴⁴² Paying for the new bureaucrats and soldiers mandated an ever-increasing tax base built upon productive citizens unfettered by marauding mercenaries, reinforcing the need to outlaw private armies.

Enlightenment ideas and their accompanying political revolutions also spurred the demise of private armies by strengthening the bond between soldier and state. Previously, mercenary organisations were a conglomeration of nationalities bound by a command language, purpose for profit and perhaps even loyalty toward colleagues. Although some private armies, such as the Swiss companies, consisted of a single nationality, most were a multinational lot, such as the *landsknechts*. This began to change when ideas of rationalism, the social contract and natural rights emerged from the English, American and French Revolutions, ushering in a new era of political thinking that transformed the individual from royal subject to national citizen and proclaimed that kings no longer ruled by the divine right of God but by the consent of the ruled, on pain of death. However, with new privileges came new responsibilities. Just as the state was obliged to protect citizens' rights,

⁴⁴¹ Richard A. Preston, et al., *Men in Arms: A History of Warfare and Its Interrelationships With Western Society* (Westport, CT: Praeger Security International, 1962), 112.

⁴⁴² F.L. Carsten, *The New Cambridge Modern History Vol. 5: 1648-88. The Ascendancy of France* (Cambridge: Cambridge University Press, 1961), 550-551.

citizens were duty-bound to defend the state, as demonstrated by the *levée en masse* that swelled Napoleon's ranks. The revolutions cemented a bond between individual and state, giving rise to nationalism and linking military service to patriotic duty.

The emerging Westphalian notion of sovereignty also demanded that states put private armies out of business. First, if states were to govern as the sole authority within a given territory, they needed a monopoly of force to uphold their rule of law; all threats to this enterprise, such as mercenaries, were proscribed. Second, the Westphalian system held that each state was responsible for trans-border violence that emanated from its territory, even if the regime did not support that violence. Owing to this, states prohibited private armies out of fear that they might start a war with a neighbour and drag both states into armed conflict with each other. The only serious exception to the new norm against private armies involved states employing the armies of other states. During the American Revolutionary War, Great Britain rented nearly 30,000 soldiers from German states, mostly from Hesse-Kassel, to quell the colonial revolt. The American rebels called these German soldiers *Hessians*. German states became factories of state-sponsored mercenarism, supplying tens of thousands of German soldiers to other national powers in the soldier trade (*Soldatenhandel*).⁴⁴³ In a sign of the times, what was once considered a legitimate practice became morally repugnant, attracting pejorative labels such

⁴⁴³ M.S. Anderson, *Europe in the Eighteenth Century, 1713-1783* (London: Longman, 1987), 220; M.S. Anderson, *The War of the Austrian Succession, 1740-1748* (London: Longman, 1995), 32; Michael Hughes, *Early Modern Germany, 1477-1806* (Philadelphia: University of Pennsylvania Press, 1992), 153.

as *Menschenhandel* (trade in human beings), *Menschenverkauf* (sale of human beings), or *Seelenverkauf* (sale of souls).⁴⁴⁴

Similarly, though pirates were strictly outlawed and typically faced the gallows if caught, it was considered legitimate for states to hire private warships, or privateers, by issuing a letter of marque to attack enemy ships. Privateers were even permitted pilfering as part of the prize. The key difference between a pirate and a privateer was normative, as acts of piracy were deemed illegal because they were ‘done under conditions which render it impossible or unfair to hold any state responsible for their commission’.⁴⁴⁵ States also delegated military affairs to quasi-state-run trading companies such as the East India Company, which commanded its own armed forces and governed India for Great Britain for over two centuries. The last incident in which a state raised an army of foreigners was in 1854, when Great Britain hired 16,500 mercenaries for the Crimean War, although none saw battle because the war ended before they arrived in theater.⁴⁴⁶ By 1900 the practice of utilising private forces, even when state sponsored, was defunct. As Thomson writes, ‘states could no longer buy an army or navy from the international system’.⁴⁴⁷ European rulers first encouraged, then delegitimised and finally eliminated mercenarism.

⁴⁴⁴ Peter H. Wilson, “The German ‘Soldier Trade’ of the Seventeenth and Eighteenth Centuries: A Reassessment,” *The International History Review* 18, no. 4 (1996): 758.

⁴⁴⁵ William Edward Hall, *A Treatise on International Law* (Oxford: Clarendon Press, 1917), 310; see also Thomson, *Mercenaries, Pirates, and Sovereigns*, 22-26.

⁴⁴⁶ Charles C. Bayley, *Mercenaries for the Crimea: The German, Swiss, and Italian Legions in British Service, 1854-1856* (Quebec: McGill-Queen’s University Press, 1977), 111.

⁴⁴⁷ Thomson, *Mercenaries, Pirates, and Sovereigns*, 19.

The Black Market for Force

In the twentieth century the Westphalian order was at its zenith and the free market for force was pushed underground. The privilege of legitimately waging war was arrogated exclusively to states and their militaries, and was the view commonly espoused by international relations theory, which emerged during this period.⁴⁴⁸ As World War I, World War II and the Cold War were emblematic conflicts of the period, waged between ‘great power’ nations using huge public militaries as gladiators to settle political disputes, private armies were globally outlawed by the society of states and codified in the laws of armed conflict (LOAC), particularly in the Third and Fourth Geneva Conventions. The LOAC were created to regulate interstate warfare and proscribe all forms of non-state violence, such as mercenaries, that crossed national borders. According to the LOAC, the only ‘lawful’ combatants are members of regular—read *state*—armed forces and paramilitary groups that come under national military command and meet certain criteria, such as carrying their weapons openly, distinguishing themselves from civilians and generally obeying the laws of war.⁴⁴⁹ In this context, mercenaries are deemed illegal because they are warriors whose allegiance is based primarily on

⁴⁴⁸ For example see: Robert J. Art, and Kenneth N. Waltz, *The Use of Force: International Politics and Foreign Policy* (Lanham, MD: University Press of America, 1983).; Brown, et al., *Theories of War and Peace*.; Midlarsky, *Handbook of War Studies*; Wayman and Diehl, *Reconstructing Realpolitik*.

⁴⁴⁹ Third Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316; Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516. The LOAC that deal with mercenaries also sought to stem the rise of individual mercenaries operating in Sub-Sahara Africa in the 1960s.

monetary compensation rather than obedience and loyalty to a state.⁴⁵⁰ The most widely accepted definition of a mercenary in the laws of war is in Article 47 of Protocol I Additional to the Geneva Conventions, which states as follows:

1. A mercenary shall not have the right to be a combatant or a prisoner of war.
2. A mercenary is any person who:
 - a. is especially recruited locally or abroad in order to fight in an armed conflict;
 - b. does, in fact, take a direct part in the hostilities;
 - c. is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
 - d. is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;
 - e. is not a member of the armed forces of a Party to the conflict; and
 - f. has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.⁴⁵¹

However, this definition is so restrictive yet imprecise that almost no one falls into the category.⁴⁵² One military historian remarked that ‘any mercenary who

⁴⁵⁰ Gregory P. Noone, “The History and Evolution of the Law of War Prior to World War II,” *Naval Law Review* 47 (2000): 176-207.

⁴⁵¹ “Protocol Additional to the Geneva Conventions of August 12 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) June 8, 1977,” Office of the United Nations High Commissioner for Human Rights, <http://www2.ohchr.org/english/law/protocol1.htm>.

⁴⁵² For further discussion of the many loopholes in Protocol 1, see: Montgomery Sapone, “Have Rifle with Scope, Will Travel: The Global Economy of Mercenary Violence,” *California Western International Law Journal* 30, no. 5 (1999): 36-43; Juan C. Zarate, “The Emergence of a New Dog of War: Private International Security Companies, International Law, and the New World Disorder,” *Stanford Journal of International Law* 34, no. 75 (1998); Sarah Percy, *Mercenaries: The History of a Norm in International Relations* (Oxford: Oxford University Press, 2007).

cannot exclude himself from this definition deserves to be shot—and his lawyer with him!’⁴⁵³

Despite the norm against mercenaries, there were some examples of state-sponsored mercenarism in the twentieth century.⁴⁵⁴ The Flying Tigers—the popular name of the 1st American Volunteer Group of the Chinese Air Force in 1941–42—consisted of some sixty Curtiss P-40 shark-faced fighter planes based in Burma, and flew missions against Japanese forces occupying China. The unit was staffed by mostly former United States military personnel and pilots, and was little more than a way for the United States to combat Japan before war was formally declared. Monthly salaries varied but were all substantially higher than those of the United States public military: \$250 for a skilled ground crewman, \$600 for a pilot officer and \$675 for a flight leader.⁴⁵⁵ Squadron commanders received \$750 a month or \$11,486.65 in 2010 dollars. In many ways, the Flying Tigers were precursors of modern PMCs.

For the most part, however, mercenaries led an illicit life, operating as private warriors in the shadows rather than for-profit companies in the open market. Individual soldiers of fortune bounced between geopolitical hotspots in China, Latin America and especially Africa. Their employers included rebel groups, weak governments, multinational firms operating in precarious regions and former colonial powers who desired clandestine influence in the affairs of

⁴⁵³ Originally quoted in Geoffrey Best, *Humanity in Warfare* (New York: Columbia University Press, 1980), 375.

⁴⁵⁴ For more on the norm against mercenaries, see: Sarah Percy, *Mercenaries: The History of a Norm in International Relations*. Oxford: Oxford University Press, 2007.

⁴⁵⁵ Daniel Ford, *Flying Tigers: Claire Chennault and His American Volunteers, 1941-1942* (New York: Harper Paperbacks, 2007), p. 45.

their past colonies. The decolonisation that followed World War II offered particularly rich opportunities for these private warriors. With unconstrained political rivalries, the proliferation of warlords and warriors, weak states, weaker rulers, cowed populations, little or no rule of law and access to resources, the conditions for a free market for force were improving.

The Congo Crisis of 1960–68 began with national independence from Belgium and ended with the seizing of power by Joseph Mobutu, causing the deaths of tens of thousands of people.⁴⁵⁶ During this maelstrom of conflict, international mining companies such as Union Minière hired hundreds of mercenaries known as Les Affreux (The Frightfuls), including Irishman ‘Mad’ Mike Hoare and Frenchman Bob Denard, to support the Katanga secession. Later, Hoare attempted a coup d’état of the Seychelles Islands and Denard fought in many African countries including Angola, Zimbabwe, Gabon and the Comoros Islands, where he participated in four coups, the last in 1995. Their exploits informed movies such as *The Wild Geese* (1978), for which Hoare was a technical advisor, and *The Dogs of War* (1980), based on a Frederick Forsyth novel inspired by the life of Denard. These and other treatments still shape mercenary stereotypes in today’s popular imagination, summed up by a scene in *The Dogs of War* when one mercenary makes a toast before their ad

⁴⁵⁶*The Twentieth Century Atlas—Death Tolls* places the number of dead around 100,000 people. See: “Mid Range Wars and Atrocities of the Twentieth Century,” *The Twentieth Century Atlas – Death Tolls*, accessed January 14, 2011, <http://users.erols.com/mwhite28/warstat4.htm#Crisis>.

hoc team embarks on its mission: *‘Vive la mort! Vive la guerre! Vive le sacré mercenaire!’*.⁴⁵⁷

The Return of Private Armies

Shortly after the Cold War the world witnessed the resurrection of private armies. Perhaps it is not surprising that the first real mercenary firm emerged in Africa. With the fall of the South African apartheid regime, Lieutenant-Colonel Eeben Barlow left the South African Defence Force to establish the first PMC, the appropriately named Executive Outcomes (EO). Its ranks were populated by soldiers from South African special forces units, such as the 32nd Battalion and the Koevoet—*cronbar* in Afrikaans—a special counter-insurgency police force. EO was a private army in the mould of the old *condottieri*. It was a fully functional, self-contained military organisation, complete with its own air force, that would conduct full-spectrum combat operations for the right price. In 1993 the Angolan government hired EO to defeat the rebel group National Union for the Total Independence of Angola (UNITA), retake oil facilities in the harbour town of Soyo and train government soldiers for \$40 million a year. Two years later, Sierra Leone’s government hired EO to defeat the Liberian-backed Revolutionary United Front (RUF), retake the Kono diamond area and force a negotiated peace for \$35 million.⁴⁵⁸

⁴⁵⁷ Loosely translated, ‘Long live death! Long live war! Long live the sacred mercenary!’

⁴⁵⁸ David Shearer, “Outsourcing War,” *Foreign Policy*, no. 112 (1998): 73. See also: Coker, “Outsourcing War,” 106-107.

In the early days of the Rwandan genocide EO approached then-UNDPKO chief Kofi Annan and offered to help contain the violence as the United Nations generated a competent peacekeeping force, which normally requires several months. Annan refused EO's offer, claiming later that 'the world may not be ready to privatise peace'.⁴⁵⁹ This view was costly, as over 800,000 people died within 100 days—8,000 people a day, more than all United States casualties in the wars of Iraq and Afghanistan combined over the past decade.⁴⁶⁰ Later, Mozambique, Uganda and Kenya also turned to EO for help.⁴⁶¹ Some scholars suggest, with a fair degree of hyperbole, that EO represents the future of armed conflict, but this has not come to pass.⁴⁶² EO remains a distinctly unique phenomenon. Taking a cue from its progenitors 350 years earlier, the South Africa government outlawed mercenaries in 1998 and EO was dissolved as mandated by the Regulation of Foreign Military Assistance Act.

⁴⁵⁹ U.N. Press Release, SG/SM/6613, "The Secretary-General reflects on 'Intervention' in Thirty-Fifth Annual Ditchley Foundation Lecture," June 26, 1998, part 8, <http://www.un.org/News/Press/docs/1998/19980626.sgsm6613.html>.

⁴⁶⁰ Estimate of people killed in Rwandan genocide: Alison Des Forges, "Leave None to Tell the Story": *Genocide in Rwanda* (Human Rights Watch, 1999). Estimate of number of United States casualties as of January 15, 2011: <http://www.defence.gov/news/casualty.pdf>.

⁴⁶¹ Michael Lee Lanning, *Mercenaries: Soldiers of Fortune, From Ancient Greece to Today's Private Military Companies* (USA: Presidio Press, 2005), 186.

⁴⁶² Exaggeration over the significance of EO is exemplified by: Peter W. Singer, *Corporate Warriors: The Rise of the Privatized Military Industry* (Ithaca, NY: Cornell University Press, 2003); Zarate, "Emergence of a New Dog of War."; Shearer, "Outsourcing War."; Anna Leander, "The Market for Force and Public Security: The Destabilizing Consequences of Private Military Companies," *Journal of Peace Research* 42, no. 5 (2005): 605-622. For a more balanced analysis of EO, see: Herbert M. Howe, "Private Security Forces and African Stability: The Case of Executive Outcomes," *Journal of Modern African Studies* 36, no. 2 (1998): 307-331; Kevin O'Brien, "Private Military Companies and African Security 1990-98," in *Mercenaries: An African Security Dilemma*, ed. A-F. Musah and K. Fayemi (London: Pluto Press, 2000), 43-75; Christopher Kinsey, *Corporate Soldiers and International Security: The Rise of Private Military Companies* (London: Taylor & Francis, 2006). For an 'inside' perspective, see Barlow's account: Eeben Barlow, *Executive Outcomes: Against All Odds* (South Africa: Galago Books, 2007).

However, EO's legacy lives on. The firm was loosely linked to a London-based PMC known as Sandline International, managed by former British lieutenant colonel Tim Spicer, British Special Air Service (SAS) officer Simon Mann, and US Army Special Forces colonel Bernie McCabe. Connecting these two PMCs was Mann, who had worked for EO,⁴⁶³ and Anthony Buckingham, a British army officer turned oil executive who helped EO secure contracts in Angola. Fearing EO's imminent demise in the late 1990s, Buckingham turned to Sandline for services, although the exact relationship between EO, Sandline and Buckingham remains unclear. In 1997 Papua New Guinea's prime minister Julius Chan contracted the firm to recapture copper mines held by separatists on Bougainville Island for \$36 million.⁴⁶⁴ Sandline subcontracted most of its personnel from EO, only to be rebuffed by the Papua New Guinea army, who arrested and deported the contractors without shots fired. Chan was forced to resign and the entire spectacle made world news as the Sandline Affair. Around this time, ousted Sierra Leone president Ahmad Tejan Kabbah contracted the firm to train and equip 40,000 Kamajor militia and members of a regional peacekeeping force to overthrow the military junta and secure diamond areas. Sandline was also to provide logistical and air support to the operation, as well as launch a full counter-coup from neighbouring Guinea. This too ended in failure, resulting in the arms-to-Africa scandal in the United Kingdom.

⁴⁶³ Adam Roberts, *The Wonga Coup: Guns, Thugs, and a Ruthless Determination to Create Mayhem in an Oil-Rich Corner of Africa* (USA: Public Affairs, 2006), ix.

⁴⁶⁴ A complete copy of this contract can be found in Appendix D of Lanning, *Mercenaries: Soldiers of Fortune*.

In a twist of mercenary fate, the private warriors later found themselves working for different sides. Simon Mann led a group of mercenaries with alleged financial backing from Mark Thatcher, son of the former United Kingdom prime minister, in an attempted coup d'état of oil-rich Equatorial Guinea in 2004, known as the Wonga Coup. The coup failed and Mann was sentenced to thirty-four years in prison, but was released on compassionate grounds. McCabe left Sandline to become the head of global security for the Marathon Oil Corporation, which is deeply invested in Equatorial Guinea and would not wish to see the country change political hands.⁴⁶⁵ It would be interesting to imagine a reunion between these two brothers-in-arms on opposite sides of the cell door in Equatorial Guinea's notorious Black Beach prison. As for Spicer, shortly after the United States invaded Iraq in 2003 he founded Aegis Defence Services and won a lucrative contract worth \$293 million over three years providing armed protection, logistical support and intelligence services to the United States government.⁴⁶⁶ EO's progeny lives on in Iraq today.

⁴⁶⁵ For more on the Wonga Coup, see: Adam Roberts, *The Wonga Coup: Guns, Thugs, and a Ruthless Determination to Create Mayhem in an Oil-Rich Corner of Africa* (USA: Public Affairs, 2006), 53, 228-229.

⁴⁶⁶ Steve Fainaru and Alec Klein, "In Iraq, a Private Realm of Intelligence-Gathering," *The Washington Post*, July 1, 2007.

Chapter 4

The New Market for Force

Is it really true that political self-interest
is nobler somehow than economic self-interest?

—Milton Friedman

Private armies have returned, but as a mirror image of their times. Today's military companies are sophisticated MNCs with shareholders and corporate offices around the world.⁴⁶⁷ Their stocks are bought and sold on Wall Street and listed on the London and New York stock exchanges. As they are responsible for complex military operations, DynCorp International, Blackwater, MPRI, Triple Canopy, Erinys and ArmourGroup International have generals and ambassadors on their corporate boards and former military and law enforcement personnel on their payrolls, and the companies proffer

⁴⁶⁷ Interestingly one could also argue that private armies have returned as a mirror of their times in broader way, representing not just the commodification of violence but also the commodification of the times. See: Christopher Coker, *Ethics and War in the 21st Century* (London: Routledge, 2009), 138-143.

their employees' skills to governments, other MNCs, NGOs and international organisations. The industry even has its own trade associations: the International Stability Operations Association (ISOA) in Washington DC, the British Association of Private Security Companies in London, and the Private Security Company Association of Iraq.⁴⁶⁸ Like their medieval forerunners, modern *condottieri* are generally considered legitimate yet controversial businesses that provide needed services in the global marketplace.

The market maker for modern force is the United States, as it turned to the private sector in unprecedented ways to support its wars in Iraq and Afghanistan. Contractors have been present on United States battlefields since the American Revolution, but never before has the country relied so heavily on their services to wage war. Consequently war has become big business again. In little over a decade, the industry has expanded from a multi-million to a multi-billion dollar affair. The market's value remains unknown; expert estimates range wildly from \$20 billion to \$100 billion annually.⁴⁶⁹ What is known is that from 1999 to 2008, DOD contract obligations increased from \$165 billion to \$414 billion.⁴⁷⁰ In 2010 DOD obligated \$366 billion to contracts (54 per cent of total DOD obligations), an amount seven times the United

⁴⁶⁸ The International Stability Operations Association (ISOA) was formerly known as the International Peace Operations Association (IPOA), which rebranded to ISOA in late 2010.

⁴⁶⁹ Respectively: "Interview with Doug Brooks," Frontline, March 22, 2005, accessed May 13, 2009, <http://www.pbs.org/wgbh/pages/frontline/shows/warriors/interviews/brooks.html>; "Interview with Peter Singer," Frontline, March 22, 2005, accessed May 13, 2009, <http://www.pbs.org/wgbh/pages/frontline/shows/warriors/interviews/singer.html>.

⁴⁷⁰ Numbers are in 2010 dollars. 'Obligations' occur when US agencies enter into contracts, employ personnel, or otherwise legally commit to spending money. 'Outlays' occur when obligations are liquidated. See: Moshe Schwartz and Joyprada Swain, *Department of Defense Trends in Overseas Contract Obligations* (Washington, DC: Congressional Research Service, 2011), 1.

Kingdom's entire defence budget.⁴⁷¹ Moreover, this only entails DOD contract obligations and does not include contracts made by other government agencies like the State Department. The United States dominance of the new market for force does not make it entirely free, as was the case in the Middle Ages. It is more a monopsony, in which the United States wields market power as the consumer-in-chief to shape business practices and norms.

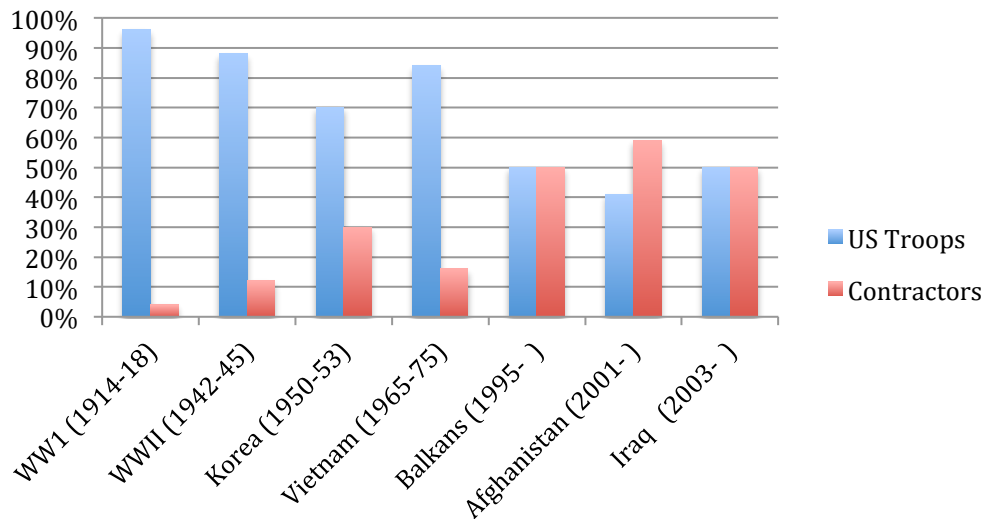
The manifestations of the new market are stark. Not surprisingly, the number of contractors supporting operations in Iraq and Afghanistan has reached historic proportions compared to earlier United States wars (Figure 5). As of 31 March 2010, the United States deployed 175,000 troops and 207,000 contractors in war zones. During World War II contractors accounted for only 10 per cent of the military workforce compared to 50 per cent in Iraq today—a 1:1 ratio of contractors to military personnel.⁴⁷² As the number of troops in Iraq has decreased, so too has the number of contractors. Since June 2008 troop levels have dropped by 57,400 (37 per cent) and the number of contractors by approximately 67,000 (41 per cent). However, this reduction is not uniform across the types of contracted personnel. Those providing base support and construction declined by approximately 27,400 (31 per cent) and

⁴⁷¹ "Defence Spending £32.9Bn or \$51Bn in 2010", UK Ministry of Defence, Accessed Aug 4, 2011, <http://www.mod.uk/DefenceInternet/AboutDefence/Organisation/KeyFactsAboutDefence/Defencespending.htm>.

⁴⁷² Government Accounting Office, *Defense Management: DOD Needs to Reexamine Its Extensive Reliance on Contractors and Continue to Improve Management and Oversight* (Washington, DC: Government Accounting Office, 2008); Moshe Schwartz, *Department of Defense Contractors in Iraq and Afghanistan: Background and Analysis* (Washington, DC: Congressional Research Service, 2010), 5.

34,000 (94 per cent) respectively, whereas the number of armed contractors actually increased by 2,417 (26 per cent), which is significant.⁴⁷³

Figure 5: Contractors as Percentage of United States Military Workforce in Theatres of War (as of March 2010)⁴⁷⁴



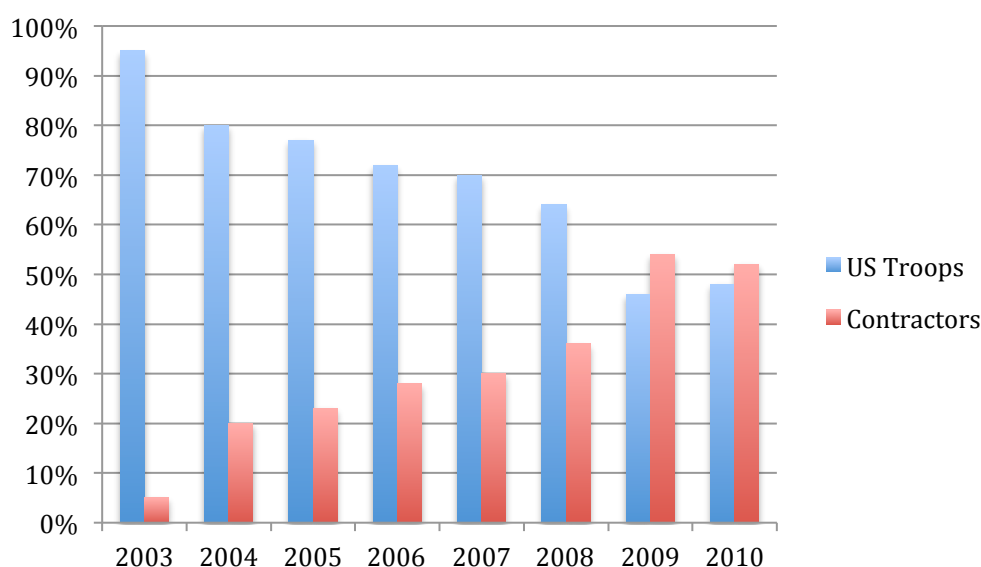
Contractors are also paying the ultimate sacrifice, accounting, in a rising trend, for 25 per cent of all United States fatalities since the wars in Iraq and Afghanistan began. In 2003 contractor deaths represented only 4 per cent of all fatalities. That number rose to 27 per cent from 2004 to 2007, and from 2008 to 2010, contractor fatalities accounted for 40 per cent of the combined death toll. In 2010 more contractors were killed than military personnel, marking the first time in history that corporate casualties have outweighed military losses on United States battlefields. In the first two quarters of 2010

⁴⁷³ Ibid, 456.

⁴⁷⁴ Ibid.; Jennifer Elsea, *Private Security Contractors in Iraq: Background, Legal Status, and Other Issues* (Washington, DC: Congressional Research Service, 2008); Based on data from: William W. Epley, "Civilian Support of Field Armies," *Army Logistician* 22 (November/December 1990): 30-35; Steven J. Zamparelli, "Contractors on the Battlefield: What Have We Signed Up For?" *Air Force Journal of Logistics* 23, no. 3 (Fall 1990): 10-19.

alone, contractor deaths represented more than half—53 per cent—of all fatalities (see Figure 6 and Figure 7).⁴⁷⁵ The exact numbers are difficult to reach, as the United States government does not track such data and companies have a propensity to underreport their wounded and dead, as it is bad for business.⁴⁷⁶ But overall, this trend suggests a growing United States dependency on the private military industry in warfare, similar to the situation in the Middle Ages, and unless the United States decides to significantly expand its public armed forces or reduce military engagement abroad, this trend toward the privatisation of warfare will continue.

Figure 6: Per cent Breakdown of Fatalities in Iraq⁴⁷⁷

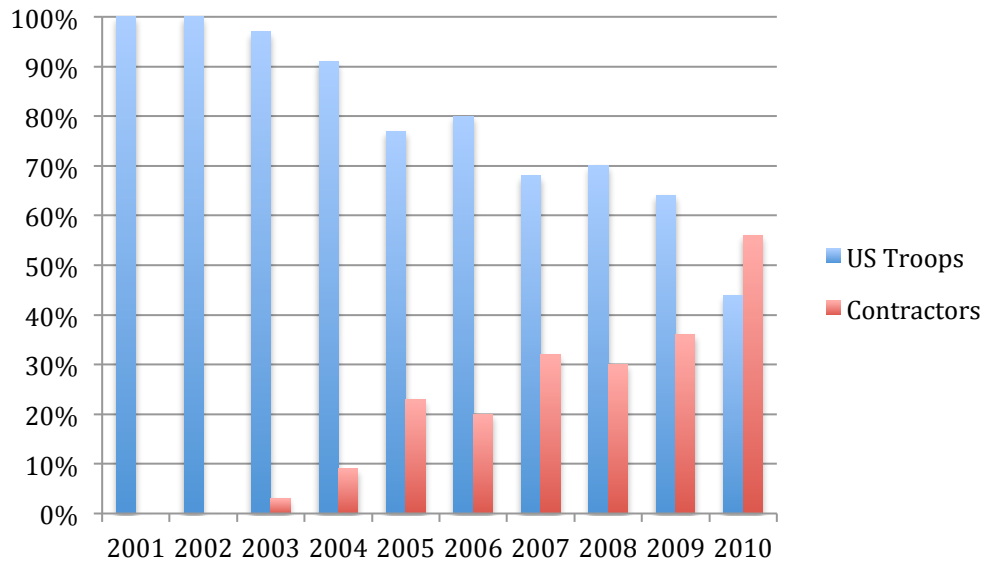


⁴⁷⁵ Steven L. Schooner and Collin Swan, “Contractors and the Ultimate Sacrifice,” The George Washington University Law School, Public Law and Legal Theory Working Paper no. 512 (September 2010).

⁴⁷⁶ Government Accountability Office, *Contingency Contracting: DOD, State, and USAID Continue to Face Challenges in Tracking Contractor Personnel and Contracts in Iraq and Afghanistan* (Washington, DC: Government Accountability Office, 2009); Christian Miller, “Civilian Contractor Toll in Iraq and Afghanistan Ignored By Defense Dept,” *ProPublica*, October 9, 2009.; Justin Elliott, “Hundreds of Afghanistan Contractor Deaths Go Unreported,” *Salon.com*, July 15, 2010.

⁴⁷⁷ Schooner, “Contractors and the Ultimate Sacrifice.”

Figure 7: Per cent Breakdown of Fatalities in Afghanistan⁴⁷⁸



To address this development, the United States army commissioned an independent internal study led by top military logisticians, who issued their report in 2007 titled *Urgent Reform Required: Army Expeditionary Contracting*, also known as the Gansler Report after its chairman, Dr. Jacques S. Gansler. As the title infers, the panel found that the “Operational Army” is expeditionary and on a war footing, but does not yet fully recognise the impact of contractors in expeditionary operations and on mission success’. Furthermore, they unanimously agreed that ‘acquisition failures in expeditionary operations urgently require a systemic fix of army contracting’, and recommended sweeping changes in four broad areas: first, establishing effective laws, regulations and policies to govern contracting, especially for expeditionary operations; second, fundamentally restructuring and reorganising army

⁴⁷⁸ Ibid.

institutions to better manage and integrate contractors into operations; third, increasing the stature, quantity and career development of military and civilian contracting personnel (especially for expeditionary operations), including introducing contract management into all levels of military education; and fourth, providing the training and tools necessary for overall contracting activities in expeditionary operations.⁴⁷⁹

To date, these recommendations have been ignored, as the military persists in viewing contractors as temporary augmentations to their campaigns, even as, for nearly a decade, contractors have constituted half the United States forces in war zones. As Christopher Kinsey explains, ‘the military still sees contractors as a bolt-on asset that it can utilise in an ad hoc fashion as required, when in fact the military needs to come to terms with the idea that contractors are now part of its force structure’.⁴⁸⁰ The 2010 Quadrennial Defence Review finally acknowledged the military’s ‘dependence’ on contractors and its intention to reduce it through an ‘in-sourcing initiative’ however this program will not apply to contractors in conflict areas, like PMCs.⁴⁸¹ In a widely distributed memorandum, the Secretary of Defense confirms the number of contractors in warzones ‘well exceeded’ military

⁴⁷⁹ *Urgent Reform Required: Army Expeditionary Contracting: The Report of the Commission on Army Acquisition and Program Management in Expeditionary Operations: Hearing Before the Subcommittee on Readiness and Management Support of the Committee on Armed Services, United States Senate*, 110th Cong. December 6, 2007, 5.

⁴⁸⁰ Kinsey, *Corporate Soldiers and International Security*, 4.

⁴⁸¹ *Quadrennial Defence Review*, February, 2010,
http://www.defense.gov/qdr/images/QDR_as_of_12Feb10_1000.pdf, 55-56.

personnel and ‘I do not expect this to change now or in future contingency operations’.⁴⁸²

In addition to the increasing United States dependence on the private sector to wage war, the types of private actors are also expanding. The vast majority of contractors in Iraq and other places are unarmed and provide non-lethal logistical support, such as construction, maintenance and administrative duties (Figure 8). Logistics is the traditional role of contractors on the battlefield, and today’s largest contracts remain logistical in nature, such as the US Army’s Logistics Civil Augmentation Program (LOGCAP) worth up to \$22 billion. What is new, and controversial, is the presence of armed contractors. To many, the decision to outsource lethality to armed civilians in foreign lands who are tasked to kill people when necessary smacks of mercenarism.

Armed contractors account for 12 per cent, or 11,610, of the overall contracting force in Iraq in 2010 and 14,439 in Afghanistan, representing a minority of all contractors in theatre.⁴⁸³ But size does not matter when it comes to armed contractors. Even though they are fewer in number than their unarmed brethren, their actions resonate disproportionately louder, owing to the nature of their work: They kill people. When a handful of Blackwater personnel killed seventeen innocent civilians at Nisour Square in Baghdad on

⁴⁸² Secretary of Defense, ‘Strategic and Operational Planning for Operational Contract Support (OCS) and Workforce Mix’, memorandum, US Department of Defense, January 24, 2011.

⁴⁸³ *Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan*, 15; Schwartz, *Department of Defense Contractors in Iraq and Afghanistan*, 8.

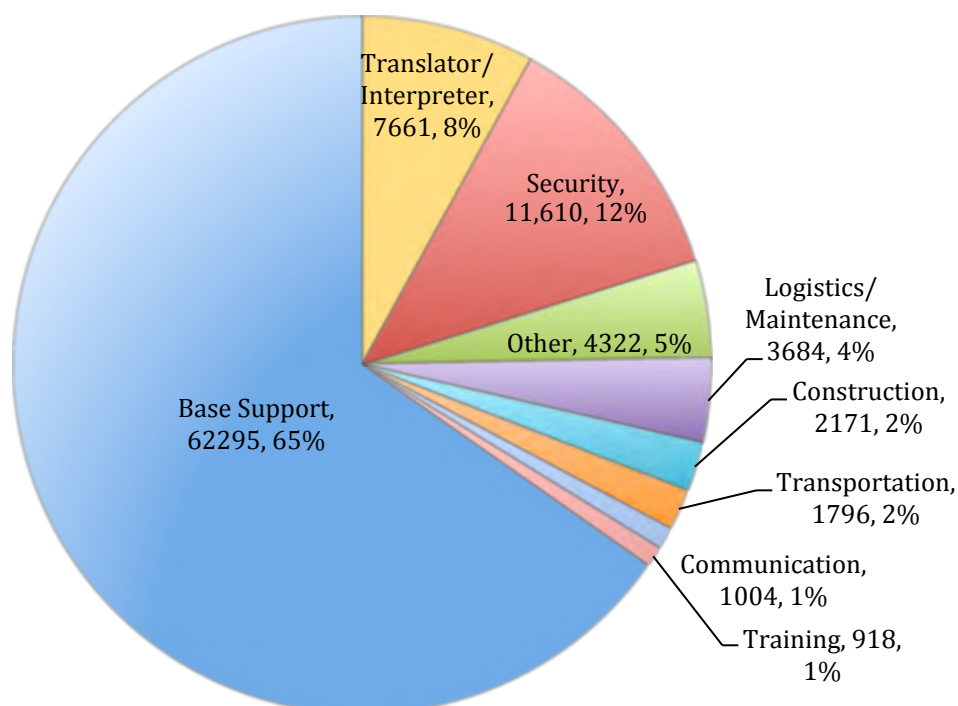
16 September 2007, it created a firestorm of anti-US sentiment that undermined the United States counter-insurgency strategy of ‘winning hearts and minds’ in Iraq and generated such international ill will that Secretary of State Condoleezza Rice had to publically address the shooting and launch an official investigation.⁴⁸⁴ Despite the pandemonium, the Blackwater contractors walked free because they are immune from Iraqi law, in accordance to Order 17 of the Coalition Provisional Authority.⁴⁸⁵ Like Machiavelli and other medieval leaders outraged with mercenaries harming the people they were hired to protect, Iraqi Prime Minister Nuri al-Maliki angrily declared: ‘It cannot be accepted by an American security company to carry out a killing. These are very serious challenges to the sovereignty of Iraq.’⁴⁸⁶

⁴⁸⁴ “Wounded Iraqis: ‘No one did anything’ to provoke Blackwater,” *CNN*, September 19, 2007, accessed April 23, 2009, <http://www.cnn.com/2007/WORLD/meast/09/19/iraq.fateful.day/index.html>.

⁴⁸⁵ Coalition Provisional Authority, ‘*Coalition Provisional Authority Order Number 17 (Revised)*’, *Status Of The Coalition Provisional Authority, MNF - Iraq, Certain Missions And Personnel In Iraq*, June 27, 2007, http://www.iraqcoalition.org/regulations/20040627_CPAORD_17_Status_of_Coalition_Rev_with_Annex_A.pdf.

⁴⁸⁶ Barbara Miller, “The World Today - Blackwater a challenge to Iraqi sovereignty: al-Maliki,” *ABC Online*, September 24, 2007, accessed April 23, 2010, <http://www.abc.net.au/worldtoday/content/2007/s2041431.htm>.

Figure 8: United States Military Contractors in Iraq by Type of Service Provided (as of March 2010)⁴⁸⁷



Companies make their profit on ‘time and materials’, meaning that they charge the client a premium for every hour an employee works or for every item purchased, no matter how small. For example, a firm may bill the government \$40 an hour for an employee’s time yet only pay that person \$30 an hour. The difference between the ‘billing rate’ and what a firm actually pays for the time or material covers the contractor’s indirect costs, overhead and profit. In the past, some critics claim private armies are more expensive than public ones. For example, Joseph Stiglitz and Linda Bilmes estimate that ‘In 2007 [in Iraq], private security guards working for companies such as

⁴⁸⁷ Schwartz, *Department of Defense Contractors in Iraq and Afghanistan*.

Blackwater and DynCorp were earning up to \$1,222 a day; this amounts to \$445,000 a year. By contrast, an Army sergeant was earning \$140 to \$190 a day in pay and benefits, a total of \$51,100 to \$69,350 a year'.⁴⁸⁸ However this analysis is flawed since they compare a company's billing rate—what it charges the government—to the annual salary of a soldier, which does not include the government's indirect costs and overhead, such as healthcare, the use of vehicles, housing, hazardous duty pay, pension and so forth. Fundamental confusions regarding how firms make their money has led to misleading conclusions about the private sector's efficiency.

Currently, most PMCs are headquartered in the United States and the senior management are United States citizens, but like all MNCs, the companies maintain offices in several countries. Should one government, such as the United States or United Kingdom, impose strict regulations on their trade, they could move offshore. Currently, Dubai is a favourite hub for the industry owing to its proximity to the markets (i.e., the Middle East and Africa) and its business-friendly laws. In personnel, these new military MNCs are comparable to the private armies of old: The personnel who fill their ranks are densely international. In Iraq only 26 per cent of contractors are United States citizens. In Afghanistan the number is only fourteen per cent.⁴⁸⁹

⁴⁸⁸ Joseph E. Stiglitz and Linda Bilmes, *The Three Trillion Dollar War: The True Cost of the Iraq Conflict* (New York: W.W. Norton & Company, 2008), 12. For more information on appropriate cost comparisons, see: *Contractors Support of Us Operations in Iraq*, 14.

⁴⁸⁹ Schwartz, *Department of Defense Contractors in Iraq and Afghanistan*, 9, 12.

Personnel that work for a United States private military firm fall into one of three categories. The first category is United States citizens, who comprise only 20 per cent of the contractor workforce, according to the Congressional Budget Office.⁴⁹⁰ They generally fill management positions and highly technical jobs, such as engineering or legal services, and receive the highest pay. A second category is local hires, or local nationals: citizens of the country in which the firm is working (e.g., Iraqis working in Iraq). Local hires usually account for the bulk of contractors overseas, and they perform a wide range of mundane tasks, such as driving, food preparation and interpreting. They are also the lowest-paid category. The last category is third-country nationals (TCNs), who are neither United States nor local citizens. TCNs hail from countries as diverse as India, Fiji, Ghana, Ecuador, Australia, Mexico and South Africa.⁴⁹¹ They typically do not fill significant management positions and are almost always paid less than a United States counterpart, even if the job is identical and they are working side by side. What is significant for the future of the industry is that these TCNs and local hires are gaining valuable trade knowledge that they can use to found new PMCs that are less picky about who they work for and how they do it. This is already happening.

⁴⁹⁰ *Contractors Support of US Operations in Iraq*, 8.

⁴⁹¹ The United States does not formally track these data. Although macabre, tracking contractor casualties provides a glimpse of what countries these individuals come from: Christian Miller, "Map: Injuries and Deaths to Civilian Contractors in Iraq and Afghanistan By Country," accessed January 19, 2011, <http://www.propublica.org/special/map-injuries-and-deaths-to-civilian-contractors-by-country-614>.

Markets Want to Be Free

As the private military industry grows, it is beginning to move beyond United States monopoly control and morph into a true free market for force, akin to the Middle Ages. In a free market, supply and demand naturally seek each other until a balance or equilibrium is reached between the two, a phenomenon Adam Smith describes as the ‘invisible hand of the market’.⁴⁹² In the context of private military services, this means force providers are pursuing new clients and vice versa in conflict zones around the world, widening the market for force. At least three different types of private military actors are driving this trend.

The first are personnel from ‘blacklisted’ firms such as EO and Blackwater. After the Nisour Square shootings, Erik Prince, founder of Blackwater, left the United States for Abu Dhabi, where he has become a dealmaker within the industry, connecting companies with clients and vice versa. He helped the South African military company Saracen International win contracts from Somalia’s beleaguered government to protect its leaders, train Somali troops and battle pirates and Islamic militants. Saracen was formed from the remnants of EO and is managed by Lafras Luitingh, a former officer in South Africa’s Civil Cooperation Bureau, a covert government-

⁴⁹² Adam Smith uses the metaphor of an ‘invisible hand’ to describe the self-regulating nature of a free market. This phenomenon is created by the convergence of market actors’ self-interest, free competition, and the nature of supply and demand. This confluence of factors act like an ‘invisible hand’ that guides market actors to trade in the most mutually beneficial manner possible, allowing markets to allocate scarce resources efficiently in society without the need of strong government market manipulation or regulation. This is a founding principle of the Austrian laissez-faire economic school, but is also invoked by neoclassical and Keynesian economists. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (University Park, PA: Penn State Electronic Classics Series Publication, 2005), 364.

sponsored hit squad that operated during the apartheid era and is now defunct.⁴⁹³

Saracen operates independently of all international and multilateral frameworks in Somalia, and little is known about the firm's intentions other than profit-motive. Between May 2010 and February 2011 it trained, equipped and deployed fighters in an attempt to create one of 'the best-equipped indigenous military force anywhere in Somalia', according to a UN report.⁴⁹⁴ Using shell companies, some of which are linked to Prince, Saracen secretly shipped military equipment into northern Somalia on cargo planes, which the report declares 'a significant violation of the general and complete arms embargo on Somalia'.⁴⁹⁵ Worse, the company's presence has aggravated already tense relations in the region, and local authorities and the UN force commander asked the company to leave Mogadishu, which it did. Now it seems Puntland has ambiguous designs for the firm and its forces, which worries neighbours and many within Puntland itself that it might reignite war.⁴⁹⁶

⁴⁹³ Truth and Reconciliation Commission, *Truth and Reconciliation Commission of South Africa Report*, vol. 2 (New York, NY: Grove's Dictionaries, 1999), 39, 80-84.

⁴⁹⁴ According to a UN report, Saracens's operations in the northern port of Bosaaso were well advanced by early 2011. The company planned to establish a force of approximately 1,000-strong, equipped with 3 transport aircraft, 3 reconnaissance aircraft, 2 transport helicopters and 2 light helicopters. The maritime component of the force would be equipped with 1 command and control vessel, 2 logistical support vessels and 3 rigid-hulled inflatable boats (RHIBs) for rapid deployment and intervention. United Nations Security Council, "Report of the United Nations Monitoring Group on Somalia and Eritrea Submitted in Accordance with Resolution 1916 (2010) [S/2011/433], July 18, 2011, 276.

⁴⁹⁵ UN, "Report of the United Nations Monitoring Group on Somalia and Eritrea," 274, 217. See also: Jeffrey Gettleman, Mark Mazzetti and Eric Schmitt, "U.S. Relies on Contractors in Somalia Conflict," *The New York Times*, August 10, 2011.

⁴⁹⁶ UN, "Report of the United Nations Monitoring Group on Somalia and Eritrea," 273, 282-283.

Saracen International is not the only PMC seeking business in Somalia. The US State Department has indirectly financed Bancroft Global Development to train African troops to fight al Shabab. The PMC offers the United States a convenient way to fight its war on terror in Africa without committing its own forces to the battle, or as Johnnie Carson, the State Department's top official for Africa, explains: 'We do not want an American footprint or boot on the ground'.⁴⁹⁷ Bancroft's advisers include a retired general from the British marines and an ex-French soldier who commanded a group of foreign fighters during Cote d'Ivoire's civil war in 2003 and did a stint in the presidential guard of the Comoros Islands. Michael C. Stock, the American head of Bancroft, strongly objects to the term 'mercenary' and instead describes Bancroft as a NGO, although it is unclear whether traditional NGOs would recognize Bancroft as such.⁴⁹⁸

Another firm, with backing from Prince, is raising a small army for the United Arab Emirates city of Abu Dhabi. Reflex Responses (R2) is based in the Middle East and boasts it can provide anything from static armed guards to nuclear security with 'the right people for the right solution at a fair price'.⁴⁹⁹ Reminiscent of Florence's hiring of Hawkwood, the city paid the firm \$529 million to raise an 800-member battalion of foreign troops to conduct special

⁴⁹⁷ Jeffrey Gettleman, Mark Mazzetti and Eric Schmitt, "U.S. Relies on Contractors in Somalia Conflict," *The New York Times*, August 10, 2011.

⁴⁹⁸ Katharine Houreld, "Bancroft Global Development, U.S. Group, Advises African Troops In Somalia," *Associated Press*, August 10, 2011.

⁴⁹⁹ International Defence Exhibition & Conference (IDEX), "Reflex Responses Management Consultancy LLC," Abu Dhabi, accessed August 1, 2011, <http://www.idexuae.ae/page.cfm/Link=21/t=m/goSection=1>.

operations missions inside and outside the country (e.g., Iran), defend oil pipelines and skyscrapers from terrorist attacks and put down internal revolts. The firm's labour pool is international, with former soldiers from the United States, Europe, Latin America and South African, but no Muslims since they might not be willing to kill fellow Muslims.⁵⁰⁰ Prince is the first major private military mogul to part ways with the United States, but other individuals and companies will inevitably follow as United States markets dry up, and when they do, they too will seek new clients or face bankruptcy.

Another type of private military actor driving this trend is the growing number of indigenous PMCs that, unsurprisingly, germinated in Afghanistan and Iraq and is now considered normal. Warlords and other local conflict entrepreneurs are adopting the PMC model as a legitimate means of providing security and making a living in dangerous places, and as a result, Iraq and Afghanistan are now awash in home-grown PMCs. In 2010 the United States Senate concluded a comprehensive investigation into private security contractors operating in Afghanistan. It revealed squandered resources, dangerous failures in contractor performance and serious gaps in government oversight that allowed such failures to persist. It also found the industry was going native, or as one observer explained: 'What used to be called warlord militias are now Private Security Companies'.⁵⁰¹ For example, an international

⁵⁰⁰ Mark Mazzetti and Emily B. Hager, "Secret Desert Force Set Up by Blackwater's Founder," *The New York Times*, May 14, 2011. For a copy of the contract, see: "Copy of Mercenary Contract," New York Times, accessed August 1, 2011, <http://graphics8.nytimes.com/packages/pdf/CONTRACT.pdf?ref=middleeast>.

⁵⁰¹ *Inquiry Into the Role and Oversight of Private Security Contractors in Afghanistan*, i.

PMC called ArmorGroup hired two local PMCs that the company called ‘Mr. White’ and ‘Mr. Pink’ to provide a guard force. The Senate investigation found evidence that these local PMCs were linked to murder, kidnapping, bribery, and anti-Coalition activities, and concluded ‘The proliferation of private security personnel in Afghanistan is inconsistent with the counterinsurgency strategy’.⁵⁰² Other examples of Afghan PMCs include Watan Risk Management, NCL Holdings, Elite Security Services and Asia Security Group.⁵⁰³

Problematically, the only local organisations in fragile states capable of fielding private armies are warlords, militias and insurgents, whom comprise much of the local market for force. Moreover, the number of local PMCs is rising. In Iraq, fifty-six of the eighty-two private security firms registered and licensed with the Ministry of Interior are Iraqi, and they work for a variety of government and private-sector clients. In Afghanistan, fifty-two private-security companies are licensed to operate, arming about 25,000 civilians contractors. These indigenous PMCs are less finicky than their United States and European counterparts about whom they work for and what they do.

A third type of private military actor driving this trend is former sub-contractor PMCs that have spun off from larger international PMCs. Global PMCs like ArmourGroup or DynCorp International typically create or retain local companies to assist them in executing their security contracts however this has inadvertently facilitated the nativisation of the private military industry

⁵⁰² *Inquiry Into the Role and Oversight of Private Security Contractors in Afghanistan*, ii and ix.

⁵⁰³ Dexter Filkins, “Convoy Guards in Afghanistan Face an Inquiry,” *The New York Times*, June 27, 2010.

in conflict-affected countries. In industry parlance, these sub-contractors are called ‘subs’ while big firms that are directly contracted by the United States government are called ‘primes’. In the private military context, Blackwater, DynCorp International and Triple Canopy are primes; subs can be local security guards, fortification builders or local administrative support. Regardless of their task, subs’ exposure to the industry allows them to become independent market players in their own right. Little is known about these local PMCs because the United States generally only monitors the performance of prime contractors and there is little—if any—vetting or oversight of subs.⁵⁰⁴

The subs-turned-PMCs are now instituting a free market for force in conflict centres like Afghanistan, which can work against United States strategic objectives in the country. A United States Congressional investigation into a \$2.16 billion contract called Host Nation Trucking (HNT), which protects overland supply lines in Afghanistan, found that most of the prime contractors hire local Afghan PMCs for armed protection of the trucking convoys. In some ways this arrangement works well: it effectively supplies most United States combat outposts across difficult and hostile terrain while only rarely needing the assistance of US troops. However, the investigators also discovered that

the principal private security subcontractors on the HNT contract are warlords, strongmen, commanders and militia leaders who compete with the Afghan central government for

⁵⁰⁴ *Inquiry Into the Role and Oversight of Private Security Contractors in Afghanistan*, Report Together With Additional Views of the Committee on Armed Services, US Senate, 111th Cong. (Sept 10, 2010), vi.

power and authority. Providing ‘protection’ services for the United States supply chain empowers these warlords with money, legitimacy, and a *raison d’être* for their private armies.⁵⁰⁵

Like the medieval market for force, the report concluded these indigenous ‘private armies’ fuel warlordism, extortion, corruption, and likely collaborate with the enemy. It determined that ‘the logistics contract has an outsized strategic impact on U.S. objectives in Afghanistan’.⁵⁰⁶ The nativization and proliferation of PMCs is consistent with Adam Smith’s ‘invisible hand’; markets want to be free as self-interest, competition and supply and demand encourage new market actors where none existed before, and this is liberalizing the marketplace for force.

The current size and scope of the embryonic free market for force remains unknown. Even the approximate number of private military personnel and where they are operating is undetermined because the firms are notoriously secretive and no independent organisation credibly tracks this information. What is known is meagre and generally limited to United States employment in Iraq and Afghanistan. According to the Congressional Research Service, a non-partisan watchdog agency of the United States Congress, of the 30,000 armed contractors operating in Iraq, only about a third work directly for the United States government while the rest served other clients: foreign governments, NGOs, MNCs and international organisations.⁵⁰⁷ Many of the security contracts are buried within larger contracts, such as

⁵⁰⁵ *Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan*, 2.

⁵⁰⁶ *Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan*, 2.

⁵⁰⁷ Elsea, *Private Security Contractors in Iraq*, 3.

reconstruction projects or aid programs that require security. Reconstruction contractors working for USAID have in turn subcontracted with PMCs for protection.

In Afghanistan the situation is more pronounced. Experts estimate the true number of armed contractors is approximately 70,000. Most of these armed civilians work for non-US firms and non-US clients, evidence that the market for force in Afghanistan is expanding beyond the ambit of United States security operations.⁵⁰⁸ The growing number of armed contractors has traumatised the Afghan population, causing needless civilian casualties, corruption and general insecurity. As Hanif Atmar, the Afghan interior minister, explains, “There are thousands of people that have been paid by both civilian and military organisations to escort their convoys, and they all pose a problem. The Afghan people are not ready to accept the private companies’ providing public security’.⁵⁰⁹ Afghan president Hamid Karzai has called to ban all private military contractors in the country, which is evocative of Frederick William the Great Elector’s call to disband his mercenaries in 1641.⁵¹⁰ The new market for force may have a fresh face but the effects of mercenaries are generally timeless.

The rise of a free market for force should be expected, along with its origins in conflict-affected countries, since they share the same market

⁵⁰⁸ Schwartz, *Department of Defense Contractors in Iraq and Afghanistan*, 3.

⁵⁰⁹ Filkins, “Convoy Guards in Afghanistan Face an Inquiry.”

⁵¹⁰ Maria Abi-Habib, “Karzai Stands By Private Security Ban,” *The Wall Street Journal*, October 25, 2010.

dynamics as medieval northern Italy, where the *condottieri* flourished for centuries. Such places are marked by unconstrained political rivalries; the proliferation of warlords and mercenaries; weak states, weaker rulers and cowed populations; little or no rule of law; and resources. Unless the international community can substantially oppose these factors, which seems unlikely, the trend toward a free market for force will continue. Microeconomics theory explains that free markets always try to bring themselves to equilibrium between supply and demand. In the case of conflict-affected countries such as Iraq and Afghanistan there is significantly more demand for security than suppliers, encouraging the proliferation of PMCs as the state fails to monopolise force and provide security. This naturally induces an open marketplace for security rather than a monopoly, as the Westphalian model requires; a market for war will grow until supply meets demand, but achieving equilibrium might prove elusive, as war naturally escalates unless constrained. In a free market context, it is unclear what that constraint might be, other than competing market actors, resulting in a situation similar to the Middle Ages of ceaseless war.

Why So Little Is Still Known

The private military industry has become a fashionable subject for study over the past decade, but knowledge about the industry remains murky. The principal obstacle to research is the lack of data on the industry. The firms themselves can be more opaque than the United States military or intelligence

agencies because they are not subject to the Freedom of Information Act or similar legislative tools that impose transparency. Even members of Congress do not have direct access to the contracts that employ these firms, even though Congress is writing the checks. Journalists' and academics' analyses of PMCs are anaemic because the industry is media-phobic, owing to its roots in the military, which traditionally eschews public scrutiny. Reporters, who are typically not even allowed to interview much less embed in PMCs, can only record the events surrounding the industry. Academics depend almost entirely on the work of journalists for their analyses of these firms. Consequently, their mutual conclusions can be speculative and even factually erroneous. This has stultified understanding concerning this important topic.

Government inquiry into the industry is limited and, at times, convoluted. Currently there is little, if any, meaningful regulation of or reporting requirements from this industry, which is remarkable when the firms are authorised to use lethal force abroad under the United States flag. Reports produced by government watchdog agencies such as the Congressional Research Service, Congressional Budget Office, the Special Inspector General for Iraq Reconstruction, the Special Inspector General for Afghanistan Reconstruction and the Government Accountability Office offer excellent snap-shots of discrete problems with the market but lack in-depth analysis. Additionally, government investigators are often given limited access to the industry's interior, owing to issues over propriety knowledge. What genuine

investigation has occurred is narrow and limited to three areas: the legal status of armed contractors on the battlefield; monetary fraud, waste and abuse; and experiences in Iraq and Afghanistan. Wider ramifications of this industry are left unexamined, such as how the commodification of conflict might undermine long-term foreign policy objectives. Congressional hearings on PMCs, such as those held by Congressman Henry Waxman, spotlight problems with these firms but do little to tangibly resolve them, and are often little more than political theatre.

Much of the media discourse on the industry is usually framed in acrimonious and demonizing terms, owing in part to the sensationalistic lure of labelling PMCs as mercenaries and the promise of an audience. A sample of headlines from mainstream news outlets reveals some of this: ‘Dogs of War: From Mercenary to Security Contractor and Back Again’, ‘Making a Killing: The Business of War’, ‘Modern Mercenaries On the Iraqi Frontier’.⁵¹¹ Reporters turned authors fan the fire of conspiracy theorists by insinuating that PMCs represent a shadow government manipulating or coercing the national security establishment, with provocative books such as Jeremy Scahill’s best-selling *Blackwater: The Rise of the World’s Most Powerful Mercenary*

⁵¹¹ David Isenberg, “Dogs of War: From Mercenary to Security Contractor and Back Again,” *United Press International*, September 12, 2008; International Consortium of Investigative Journalists, “Making a Killing: The Business of War” (Center for Public Integrity, Fall 2002); James Glanz, “Modern Mercenaries On the Iraqi Frontier,” *The New York Times*, April 4, 2004.

Army, Stephen Armstrong's *War Plc: The Rise of the New Corporate Mercenary* and Robert Young Pelton's *Licensed to Kill: Privatizing the War on Terror*.⁵¹²

The greatest purveyor of information in the popular imagination—Hollywood—often displays mercenaries as heartless villains who only care for money regardless of honour or ethics. From Boba Fett of the *Star Wars* universe to Brock Pike from the film remake of *The A-Team*, mercenaries are classic ‘bad guys’ driving the movie’s heroes to eventual victory. Other movies portray mercenaries in a more ambiguous light.⁵¹³ Stock characters aside, Hollywood tends to portray the contemporary private military industry as a massive conspiracy to ransom national security for a profit margin. The 2009 blockbuster film *State of Play*, adapted from a British Broadcasting Corporation mini-series, portrays the fictitious PMC PointCorp International, a thinly veiled play on the real PMC DynCorp International, as orchestrating an intricate web of lies that stretches to the highest levels of power in Washington DC to secure \$40 billion worth of contracts and ultimately the total privatisation of the United States military. Fortunately the day is saved by the excellent investigative reporting skills of the *Washington Globe*, a barely disguised version

⁵¹² A notable exception to this is reporter David Isenberg, who has diligently tracked this industry from its earliest days and resists the temptation of sensationalizing the issue. See: David Isenberg, *Shadow Force: Private Security Contractors in Iraq* (Westport, CT: Praeger Security International General Interest Cloth, 2008).

⁵¹³ A more recent example and perhaps more current barometer of people’s attitudes is the 2010 science fiction movie *Predators* that stars Royce, a Blackwater-like private warrior, as the protagonist. Despite his triumph over the evil alien with only an axe, his action-heroine girlfriend, Israel Defence Forces sniper Isabelle, harps on his patriotic promiscuity as a mercenary. *The Expendables*, directed by and starring Sylvester Stallone, features an elite group of mercenaries tasked with overthrowing a drug lord dictator. Significantly, the movie pays tribute to the action-film genre with an all-star cast of veteran ‘action hero’ actors denoting Hollywood’s growing comfort with mercenary heroes. The cast includes veteran action heroes Sylvester Stallone, Dolph Lundgren, Mickey Rourke, Jet Li, Gary Daniels, Jason Statham, Terry Crews, and Steve Austin. Bruce Willis and Arnold Schwarzenegger star in cameo roles.

of the *Washington Post*. Such distortions of the industry are more inflammatory than informative.

Industry defenders are equally problematic, as they tend to treat it as just another services industry, overlooking the moral, strategic and policy complexities of the issue. They maintain that the private sector is more efficient and effective than the public sector at finding solutions to difficult security challenges, but offer little evidence to outside researchers to corroborate these claims. They even inoculate the language used to describe the industry with euphemism. ISOA is disparaging of the term ‘private military company’ and ‘private security company’ and promotes the softer phrase ‘contingency contractors’. Perhaps Erik Prince best articulates the industry’s self-image: ‘Our corporate goal is to do for the national security apparatus what FedEx did to the Postal Service’.⁵¹⁴ Following the storm of negative publicity after the Nisour Square shootings, his company rebranded itself from the militaristic Blackwater, a term used by Navy SEALs to describe covert night time underwater operations, to Xe, which stands for xenon an inert, non-combustible gas. Some might view this as disingenuous and even cynical.

Amid the public debate, a broad range of literature has emerged on the private military industry within international relations, law, political science and economics, mainly dwelling on a few aspects of the issue: vague regulatory options for the industry at national, regional and international levels; normative

⁵¹⁴ Jeremy Scahill, *Blackwater: The Rise of the World’s Most Powerful Mercenary Army* (New York: Perseus Books Group, 2008), xxi.

challenges to the state's monopoly on force; and typologies that clarify the industry's organisational structure.⁵¹⁵ The conclusions drawn are generally theoretical and speculative, however, pointing out not only the lack of data needed for rigorous analysis, but disagreement about how to define a PMC. Academia offers a surfeit of terminology to describe the private military industry, among them private military contractors, private security companies, private military companies, private security/military companies, private military firms, private security contractors, private military corporations and military service providers. Some analysts and organisations, such as the International Committee of the Red Cross (ICRC), use terms interchangeably—say, private military company, private security company, and private military/security company—sowing further conceptual disorder.⁵¹⁶ The lack of a common lexicon handicaps meaningful discourse on a topic already shrouded in secrecy.

Definitions of PMCs range from the very narrow to the very broad, and both ends of the spectrum are unsuccessful from an analytical or theoretical perspective. Not surprisingly, the industry defines private security

⁵¹⁵ See for example: Thomson, *Mercenaries, Pirates, and Sovereigns*; Kevin O'Brien, "Freelance Forces: Exploiters of Old Or New-Age Peacebrokers," *Jane's Intelligence Review* 10 (1998): 42-46; David Shearer, *Private Armies and Military Intervention* (Oxford: Oxford University Press, 1998).; Singer, *Corporate Warriors*; Robert Mandel, *Armies Without States: The Privatization of Security* (Boulder, CO: Lynne Rienner Publishers, 2002); Deborah Avant, *The Market for Force: The Consequences of Privatizing Security* (Cambridge: Cambridge University Press, 2005); Fred Schreier and Marina Caparini, *Privatising Security: Law, Practice and Governance of Private Military and Security Companies* (Geneva Centre for the Democratic Control of Armed Forces, 2005); Kinsey, *Corporate Soldiers and International Security*.

⁵¹⁶ U.N. General Assembly & Security Council, A/63/467 – S/2008/636, "The Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict," September 17, 2008.
[http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/intla/humlaw.Par.0057.File.tmp/Montreux%20Document%20\(e\).pdf](http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/intla/humlaw.Par.0057.File.tmp/Montreux%20Document%20(e).pdf); International Committee of the Red Cross, "Privatisation of War: The outsourcing of military tasks," May 23, 2006, accessed April 9, 2009,
<http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/privatisation-war-230506?opendocument>.

too narrowly: the commercial act of physically protecting a person, place or thing—or, in the words of Doug Brooks, president of the ISOA, private security is any activity directly related to protecting a ‘noun’.⁵¹⁷ Similarly, the National Defence Authorisation Act for fiscal year 2008 defines private security functions as the guarding of personnel, facilities or properties, and any other activity with armed personnel.⁵¹⁸ These definitions may sound fairly comprehensive, but they fail to account for the many activities the industry’s firms are involved in, such as intelligence analysis, military operational coordination, security force training and logistical support in non-permissive and hostile environments. Moreover, they ignore the moral aspects of conducting business when it comes to the application of lethal force.

Overly broad definitions also exist, and tend to emanate from the academic community. A seminal definition advanced in the book *Corporate Warriors* by Peter W. Singer defines private military firms (PMFs) as ‘private business entities that deliver to consumers a wide spectrum of military and security services, once generally assumed to be exclusively inside the public context’.⁵¹⁹ This definition provides a good starting point for study but ultimately depends on the subjective assessment of what military services are inherently governmental or ‘assumed to be exclusively inside the public context’. This will vary greatly from observer to observer, weakening the definition’s analytical utility. Singer breaks down his definition into a typology

⁵¹⁷ Elsea, *Private Security Contractors in Iraq*, 2.

⁵¹⁸ P.L.110-181 Sec. 864.

⁵¹⁹ Singer, *Corporate Warriors*, 8.

consisting of three categories of private military actor: ‘military providers’ that conduct lethal military operations, ‘military consulting firms’ that provide military training and ‘military support firms’ that provide supplementary military services ranging from logistics to intelligence.⁵²⁰ Another widely utilised typology is by David Shearer and contains five categories: direct support to military operations; military advice and training; logistical support; security services, including political analysis; and crime prevention.⁵²¹

Both Singer’s and Shearer’s typologies served analysts admirably in the early days of the industry, but they are now outmoded. Formulated before the United States invasions of Iraq and Afghanistan, they lack explanatory power for the contemporary marketplace for military services. They are also overly inclusive in encompassing almost any company supporting a military or police effort in a conflict-affected area. Both typologies would consider Federal Express (FedEx), an international letter courier firm, a member of the private military industry because it provides logistical support to the military in Iraq, a conflict zone (category 3 for both typologies); obviously, few people would consider FedEx a member of the private military industry by any metric.⁵²² Further, most PMCs perform a wide range—if not all—of the functions outlined in the typologies, which does not help clarify what is or is not a PMC. MPRI and DynCorp International include law enforcement, logistics planning

⁵²⁰ Ibid, 93.

⁵²¹ Shearer, *Private Armies and Military Intervention*, 25-26.

⁵²² Although perhaps they will be. John Updike’s 1998 novel *Towards the End of Time* is set in an America of the near future when the police have been replaced by protection rackets that are later ousted by Federal Express.

and operations, strategic communications, and security forces training and capacity building in their services. This qualifies these PMCs in nearly every category of both typologies, negating the purpose of a typology.

Both typologies also ignore PMCs' expeditionary nature, and as a result, would technically consider domestic security firms that provide security guards and 'rent-a-cops' to protect United States malls, banks and stores from criminals as PMCs. Clearly, PMCs are set apart from their peers in providing military force in foreign lands. Additionally, Singer's self-described 'tip of the spear' typology defines a 'military provider firm' based partly on its proximity to the 'front line' within the battle-space. However, the last time the United States fought a war with a front line was the Korean War; irregular warfare knows no battle lines, making the 'tip of the spear' approach atavistic in an era dominated by unconventional warfare. In short, existing academic typologies are too blunt an instrument to parse this complex private military industry. A new taxonomy is needed, one that provides analytical and theoretical coherence to modern private military actors.

Typology of Modern Private Armies

A more appropriate typology for the private military industry is based on that which the United States army itself utilises, for two reasons. First, these new private military organisations are fundamentally private armies, as there are no

private navies or air forces.⁵²³ Like their medieval ancestors, the firms focus on land warfare. Second, because the United States is the market maker for the new private military industry, firms have patterned themselves largely on the United States military. Former US Army and Marine Corps personnel staff the ranks of management within these companies, and they have adopted the doctrine, terminology and informal soldierly language of the United States military. The boards of directors for these corporations are stocked with retired generals to help win contracts from the United States government, anticipate future government needs and lend credibility to the firm for its chief customer. At present, the market is US-centric as the United States is the chief employer of private military services and consequently has shaped the industry during its formative transformation from a multi-million to multi-billion dollar market.

The categorisation of activities required to support land warfare is similar regardless of private versus public providers, although different armies have slightly different approaches. Because combat can occur anywhere, the typology is based on function rather than location in the battlespace. For the US Army, military units fall into one of three general categories based on their primary mission: combat arms, combat support and combat service support. The function of combat arms units is to kill or train others to kill the enemy in foreign lands, unless a foreign enemy is invading the homeland. Combat arms

⁵²³ However this might be changing. Insurance companies have recently considered creating a private navy to ward off pirates in the Gulf of Aden. See: Cahal Milmo, "Insurance Firms Plan Private Navy to Take on Somali Pirates," *Independent.co.uk*, September 28, 2010.

units include infantry, special forces, armed aviation and armour (e.g., tanks). Combat service units provide operational support to the combat arms units, allowing them to engage the enemy more effectively, but they do not directly engage the enemy themselves unless in self-defence. These units include the military police and military intelligence. Combat service support units provide logistical and administrative support to combat arms and combat service units, thereby supplying and sustaining the force. Like combat service units, combat service support components are not expected to engage the enemy unless in self-defence. This category of unit includes quartermaster, ordnance, transportation, adjutant general, finance and medical services corps. The chief distinction between combat service and combat service support is that the former offers operational support while the latter offers logistical and administrative support to combat arms units.

Similarly, the private army sector consists of three categories of units or types of firms analogous to combat arms, combat service and combat service support. The Private Military Company (PMC) is the private sector equivalent of combat arms: conflict entrepreneurs structured as multinational corporations that kill or train others to kill, usually in foreign lands. There are strong and weak PMCs. Strong PMCs include *condottieri* like Hawkwood and his White Company or modern force providers such as Executive Outcomes, which can both conduct autonomous military campaigns, offensive operations

and force projection. Examples include Hawkwood's campaigns in Northern Italy and Executive Outcomes's operations in Angola.

Weak PMCs include Blackwater, Triple Canopy, DynCorp International and other contemporary firms since they cannot wage independent military campaigns; at present they can only augment large national militaries like the United States' armed forces. Additionally, they employ force (mostly) defensively and can project little power beyond their area of operation, as they employ armed personnel, convoys and helicopters to protect people and things for the United States government. In 2005 the State Department's Worldwide Personal Protective Services II (WPPS) contract awarded up to \$1.2 billion to these three PMCs, which collectively provided some 1,500 'shooters', or armed civilians authorised to kill in Iraq alone. According to a DynCorp International memorandum, armed employees are allowed to use deadly force in Iraq when 'it becomes reasonably necessary' and 'reasonableness and necessity are not to be viewed from the calm vantage point of hindsight'.⁵²⁴ Iraqi survivors and the families of the slain—including a nine year old boy, a three month old infant, and other children—sued Blackwater over what they called the 'senseless slaughter' of innocent Iraqi civilians. In other theatres of war, two Blackwater personnel were charged with killing two Afghan civilians after a traffic incident.⁵²⁵ In most cases the PMC

⁵²⁴ Government Services Unit of DynCorp International, 'DI Rules for the Use of Force (RUF) for DI Programs in Iraq', Internal memo number DI-3001, (approved by CEO Bob Rosenkranz and effective August 13, 2007): section V, A, 4 and 5.

⁵²⁵ David Zucchino, "Iraqis Settle Lawsuits Over Blackwater Shootings," *Los Angeles Times*, January 28, 2010.

personnel go free because they are authorised (and expected) to kill as part of their contract. If mistakes are made, as was the case at Nisour Square, then as Erik Prince said during congressional testimony, ‘they have one decision to make: window or aisle’ on their return flight home.⁵²⁶ Other than being fired, PMC personnel face little if any punishment for mistakenly killing civilians whereas members of the United States armed forces or Iraq security forces could be court marshalled and imprisoned.

PMCs are force providers in another way too: training. The ability to raise additional military forces through training is a combat arms function because only these units can transfer their unique skill sets to another. Only an infantry unit or special forces unit can train another country’s infantry units, which is standard practice in military training. The reason is self-evident: Military professional training is derived from the knowledge and credibility of field experience that cannot be duplicated by a textbook or imitated by a pretender. A quartermaster unit cannot train platoon patrol tactics nor can an infantry platoon train brigade resupply operations. When the United States employs a PMC to create combat arms units in the Iraq or Afghanistan army—or even raise an entire military in Liberia (as will be examined in the next chapter) akin to Wallenstein during the Thirty Years War—the PMC typically hires ex-soldiers with the requisite background, experience, credibility and expertise to plan and deliver the training. Training others to kill occupies the

⁵²⁶ ‘Blackwater USA’, *Hearing Before The Committee On Oversight And Government Reform, United States House Of Representatives*, 110th Cong., October 2, 2007 (statement of Eric Prince).

same moral universe as killing itself, and must be considered within the ambit of PMCs.

Perhaps the greatest proof that PMCs are not ordinary security guards is that enemies target PMC personnel as they would United States' soldiers. PMC personnel often look, dress and act like soldiers to casual observers: they utilize similar equipment, also wear battle fatigues, speak the same operational language as the US military, and are typically ex-US military. Not surprisingly, this has made them targets just like ordinary soldiers. On 28 January 2011 the Taliban claimed responsibility for a suicide bomb attack at a supermarket in Kabul frequented by foreigners. According to the Taliban spokesman, Zabiullah Mujahid, their target was the head of Blackwater's local operations because 'they are invaders and, secondly, they are protecting the invaders'.⁵²⁷ To date there are approximately 2,200 contractor casualties in Iraq and Afghanistan.⁵²⁸ To label these companies 'private security companies (PSCs)', 'contingency contractors' or anything other than 'military' would be disingenuous.

The private security company (PSC) is the private sector version of combat services. Examples of PSCs range from Science Applications International Corporation (SAIC), which provides intelligence analysis, to the Lincoln Group, which conducts strategic communication in Iraq, to CACI and Titan, which provide interpreters to the United States military, to Total

⁵²⁷ Ray Rivera, Alissa J. Rubin, and Sharifullah Sahak, "Deadly Attack By Taliban in Kabul Sought to Kill Head of Blackwater," *The New York Times*, January 28, 2011.

⁵²⁸ President ISOA Doug Brooks, 2011.

Intelligence Solutions, which runs spy rings for the United States government overseas. PSCs are as controversial as PMCs even though they typically are unarmed and do not employ lethal force. CACI and Titan contractors were implicated in the Abu Ghraib prison scandal and Lincoln Group instigated uproar when journalists discovered that the United States government hired the company to propagandise the United States cause in the Iraqi free press. Private spy rings are always controversial.⁵²⁹

General contractors (GCs) provide logistical support through supply, maintenance, transportation, medical and other services combat units require. GCs are not members of the private military or security industry, as they perform non-lethal tasks that are not uniquely military or security related in nature. However they are an important inclusion within this typology to acknowledge their presence and complicity in conflict-affected areas. Typical GC tasks include equipping soldiers, maintaining vehicles, constructing buildings, driving trucks with supplies, cooking meals, janitorial services, building bases and administrative duties. The bulk of contractors in conflict-affected areas fall into this category.

Focusing on function in relation to combat operations and recognising the influence of the US Army's organisational and operational influence on the

⁵²⁹ Renae Merle and Ellen McCarthy, "The Civilian Contractors: 6 Employees From CACI International, Titan Referred for Prosecution," *The Washington Post*, August 26, 2004; Borzou Daragahi and Mark Mazzetti, "U.S. Military Covertly Pays to Run Stories in Iraqi Press; Troops Write Articles Presented as News Reports. Some Officers Object to the Practice," *Los Angeles Times*, August 30, 2005; Dexter Filkins and Mark Mazzetti, "Contractors Tied to Effort to Track and Kill Militants," *The New York Times*, March 24, 2010; Mark Mazzetti, "Former Spy With Agenda Operates a Private C.I.A.," *The New York Times*, January 22, 2011.

emerging private military industry produces a more logically coherent typology than earlier attempts, especially for typologies created before the wars in Iraq and Afghanistan, which shaped the industry in substantial ways. Table 1 depicts this new typology. A few of the larger companies, such as DynCorp International, operate in all three categories, but this is exceptional; most companies specialise in only one category.

United States military officers frequently discuss tooth-to-tail ratios in campaigns. *Tooth* refers to combat arms units while *tail* refers to combat service and combat service support. How the private sector's tooth-to-tail ratio compares to the United States military's is unknown and worthy of further study. Based on preliminary numbers of armed contacts and trainers, such as the WPPS or security force assistance contracts, one would expect the private sector ratio is overwhelmingly tail compared to the United States national army. But as the Nisour Square and Abu Ghraib scandals demonstrate, numbers may not be the best measure of campaign significance, as the mistakes of a few contractors had a strongly negative strategic effect for their employer. Owing to these and other incidents, PMCs remain the most controversial aspect of private armies: They represent for-profit killing and the commodification of conflict.

Table 1: Typology of the Private Military Industry

Functional Area	Public Sector Military Unit Type	Private Sector Equivalents	Typical Tasks and Missions
Combat Arms/ Private Military Companies (PMCs) Organisations whose primary function is to kill or train others to kill the enemy in foreign lands	Infantry Special Forces Armed aviation Armour Artillery Engineers (sapper) Spying	Company of the Star White Company Executive Outcomes Sandline International Blackwater DynCorp International Triple Canopy Aegis Defence Services	<ul style="list-style-type: none"> • Military campaigning, offensive operations, force projection • Static defence: protecting fixed or static sites, such as housing areas, reconstruction work sites, or government buildings • Convoy security: protecting convoys traveling in unsecured areas • Security escorts: protecting individuals traveling in unsecured areas • Personal Security Details (PSD): providing protective security to high-ranking individuals • Lethal force training: training foreign security forces to employ lethal force • Military training: training uniquely military tasks, techniques, tactics, or strategy that improves a foreign security force's ability to destroy the enemy
Combat Service/ Private Security Companies (PSCs) Organisations that provide operational assistance to combat arms units	Engineers (non-sapper) Intelligence Communications Information Operations & Psychological Operations Civil Affairs	Titan Corporation SAIC Lincoln Group Total Intelligence Solutions DynCorp International MPRI	<ul style="list-style-type: none"> • Operational coordination: establishing and managing command, control, and communications operations centers in hostile environments • Intelligence analysis: gathering information and developing threat analysis • Psychological warfare: planning and disseminating propaganda and other psychological actions to influence the opinions, emotions, attitudes, and behavior of hostile foreign groups • Demining
Combat Service Support/ General Contractors (GCs) Organisations that provide logistical assistance to combat arms units	Quartermaster Ordnance Transportation Adjutant General Finance Medical services	KBR DynCorp International Swift Global Logistics Parsons SOS International ITT Corporation	<ul style="list-style-type: none"> • Equipping and supplying soldiers and civilians in the field with food, water, ammunition, equipment, etc. • Providing services that promote, improve, conserve, or restore the mental or physical well-being of personnel • Maintaining equipment such as vehicles, generators, buildings, etc. • Transporting units, personnel, equipment, and supplies • Managing human resources • Constructing military bases and infrastructure

Why Private Armies Have Returned

Observers of history should not be surprised by the return of private armies, as they are ubiquitous throughout the history of warfare. Yet important questions remain regarding exactly how and why this occurred. We know that weak states lose their monopoly of force when they lack the military muscle to dominate armed threats. But why would the United States, a military superpower, voluntarily choose to relinquish its monopoly of force and share this power with the private sector? What does this imply for the future of warfare and international relations?

In Search of Efficiency

The move toward private solutions to public problems began during the Cold War as a way to use business know-how to streamline government operations. The intellectual roots for the logic of privatisation originate with economists Friedrich Hayek, Milton Friedman, Ronald Coase, George Stigler and others from the Chicago, or freshwater, school of economics, which advocates unfettered free markets and minimal government intervention. It stands in stark contrast to the saltwater school of economics based in coastal United States universities—notably Harvard, MIT and Berkeley—which espouse the macroeconomic theory of John Maynard Keynes and others who believe government intervention in markets is necessary to prevent market failure. The Chicago school ideas found an enthusiastic champion in the British

Conservative Party leader Margaret Thatcher. During the economically bleak summer of 1975, a Conservative Party strategist proposed that the party should take a pragmatic ‘middle way’ between the liberal Keynesian policies of their rival Labour Party and the free-market ideas of the Chicago school that many Conservatives backed. Interrupting him, Thatcher reached into her briefcase and pulled out a copy of Hayek’s *The Constitution of Liberty*, held it up for all to see and in her characteristically iron manner asserted: ‘This is what we believe’. With this she banged the book down on the table.⁵³⁰ When Thatcher was elected prime minister in 1979 she had the opportunity to test Hayek’s ideas and initiated a comprehensive and controversial program to denationalise and privatise many state industries. Despite enormous public resistance, her efforts helped achieve the unthinkable by turning around the British economy.⁵³¹ The privatisation revolution was under way.

Over the next three decades, fervour for free markets swept across the world. The Soviet Union and communism collapsed. State-managed economies from India to Latin America liberalised and globalisation led to an economic boom. At the core of this transformation was privatisation, as states retreated from what Lenin called the ‘commanding heights’ of the economy: large industrial plants, banking, foreign trade and other key sectors of a

⁵³⁰ Quoted from: John Ranelagh, *Thatcher’s People: An Insider’s Account of the Politics, the Power and the Personalities* (New York: HarperCollins, 1991), ix; see also Richard Cockett, *Thinking the Unthinkable: Think Tanks and the Economic Counter Revolution, 1931-1983* (New York: Harper Collins, 1995), 174-176.

⁵³¹ Roderick Floud and Paul Johnson, *The Cambridge Economic History of Modern Britain* (Cambridge: Cambridge University Press, 2004), 392.

national economy.⁵³² International financial institutions such as the World Bank and IMF helped turn the ideology into a normative reality by encouraging rulers to turn their backs on patrimonialism and liberalise not only their economies but also their political systems by embracing democracy. They found willing partners in nascent post-communist countries that were eager to join the rising globalised economy. Western ideologues and especially neoconservatives, such as Fukuyama, interpreted this as proof of a causal relationship between free markets, democracy and freedom, a link Hayek had posited in his popular book *The Road to Serfdom*, written at the apex of totalitarianism in World War II.

US President Ronald Reagan joined Thatcher in her faith in free markets, and was fond of saying ‘the best minds are not in government. If any were, business would hire them away’. He meant it. Like Thatcher, he introduced sweeping economic policies, christened Reaganomics, that opposed government regulations, tariffs and other infringements on the marketplace.⁵³³ He pushed for massive tax cuts that favoured business growth at the expense of government budgets to help stimulate the private sector and recover from the economic malaise of the 1970s.⁵³⁴ Faced with ballooning federal deficits, he

⁵³² Daniel Yergin and Joseph Stanislaw, *The Commanding Heights: The Battle for the World Economy* (New York: Simon & Schuster, 2002), 7.

⁵³³ The term *Reaganomics* is attributed to journalist Paul Harvey. Reagan outlined his economic policy in a July 1981 televised address from the Oval Office that consisted of four elements: reducing government spending, reducing income and capital gains marginal tax rates, reducing government regulation and controlling the money supply to reduce inflation. His approach was a clear departure from his immediate predecessors.

⁵³⁴ The Economic Recovery Tax Act (ERTA) of 1981, also known as the ‘Kemp-Roth Tax Cut’ or ‘Reagan Tax Cut’, was a federal law ‘to amend the Internal Revenue Code of 1954 to encourage economic growth through reductions in individual income tax rates, the expensing of depreciable

established the Private Sector Survey on Cost Control to eradicate waste and inefficiency in the federal government. Its chairman, J. Peter Grace, unsurprisingly concluded that ‘government-run enterprises lack the driving forces of marketplace competition, which promote tight, efficient operations’. The solution was privatisation: ‘Turn government operations over to the private sector and you get innovation, efficiency, flexibility’.⁵³⁵ Consequently, an increasing number of areas previously considered inherently governmental were privatised, from the postal system to prisons, rationalised by the belief that businesses could find more efficient and effective solutions to public functions than the government. This faith in free market forces cleared the road for the eventual privatisation of security.

Reagan’s successors continued his privatisation policy, as hundreds of billions of dollars’ worth of government activities were outsourced to businesses. In 1993, President Bill Clinton announced the creation of the National Performance Review, an inter-agency task force led by Vice President Al Gore to identify problems and offer solutions and ideas for government savings, including privatisation. Across the aisle, the Republican-majority

property, incentives for small businesses, and incentives for savings, and for other purposes’ (Pub. L. 97-34, 95 Stat. 172, enacted August 13, 1981). It included an across-the-board decrease in the marginal income tax rates in the United States by 23 per cent over three years, with the top rate falling from 70 per cent to 50 per cent and the bottom rate dropping from 14 per cent to 11 per cent. It also cut estate taxes and reduced corporate business taxes by \$150 billion over a five-year period. Additionally the tax rates were indexed for inflation, though the indexing was delayed until 1985. By 1986 the annual revenue of the federal government was reduced by \$200 billion, prompting Reagan to raise taxes eleven times during his presidency.

⁵³⁵ Thomas Frank, “Government By Contractor is a Disgrace: Many Jobs Are Best Left to Federal Workers,” *The Wall Street Journal*, November 26, 2008.

congress was equally dedicated to the cause.⁵³⁶ The result was ‘cost savings in a range of 20 to 50 percent when federal and private sector service providers compete to perform these functions’, according to the Office of Management and Budget.⁵³⁷ By the time George W. Bush entered the White House, privatisation was a well-established norm. During his tenure he sought to privatise parts of the gigantic social security program that paid out \$675 billion in benefits in 2009, and nominated devout followers of Ayn Rand, the high priestess of unrestrained capitalism, to the Securities and Exchange Commission, which polices Wall Street.⁵³⁸ It should not be so shocking that the United States military also acceded to privatisation.

The Post-Cold War Security Vacuum

The Cold War’s end produced a perfect storm of market conditions that forged the private military industry. As the world became unstable and neomedieval, the United States was simultaneously downsizing its massive

⁵³⁶ “Privatization 98,” (paper presented at the 12th Annual Report on Privatization and Government Reform, 1998).

⁵³⁷ Office of Management and Budget, “The President’s Management Agenda: Fiscal Year 2002,” <http://www.whitehouse.gov/sites/default/files/omb/assets/omb/budget/fy2002/mgmt.pdf>, 17.

⁵³⁸ “Actuarial Publications,” U.S. Social Security Administration, <http://www.ssa.gov/oact/STATS/table4a3.html>. In May 2001, Bush announced establishment of a sixteen-member bipartisan commission ‘to study and report specific recommendations to preserve Social Security for seniors while building wealth for younger Americans’, with the specific directive that it consider only how to incorporate ‘individually controlled, voluntary personal retirement accounts’. See: President’s Commission to Strengthen Social Security, “Strengthening Social Security and Creating Personal Wealth for All Americans,” December 2001. In 2005, Bush nominated Charles Cox as Chairman of the United States Securities and Exchange Commission, whose strong beliefs in deregulation attracted the ire of many during the 2008 recession. He resigned in early 2009. Stephen Labaton, “Bush S.E.C. Pick is Seen as Friend to Corporations,” *The New York Times*, June 3, 2005.; Amit R. Paley and David S. Hilzenrath, “SEC Chief Defends His Restraint,” *The Washington Post*, December 24, 2008.

military by 40 per cent in order to reap a 'peace dividend'.⁵³⁹ Almost immediately upon taking office in 1993, the Clinton administration implemented a 40 per cent drop in the defence budget and reduced forces from 2.2 million to 1.4 million active-duty soldiers, sailors, airmen and Marines.⁵⁴⁰ The cuts affected the entire military. Army divisions were reduced from eighteen to ten, navy ships decreased from 547 to 346 and air force fighter wings dropped from thirty-six to nineteen.⁵⁴¹ Overseas troop strength was especially targeted for reduction, as the United States no longer required a massive army standing watch over the Iron Curtain to guard against Soviet invasion. Troops stationed overseas shrank by more than 50 per cent, from approximately 600,000 in 1990 to 250,000 in 1999. These dramatic reductions in force structure generated the labour pool of experienced ex-military personnel that the new private military industry needed to grow.

Just as military supply was shrinking, demand for military operations was on the rise. From 1960 to 1991 the United States army conducted ten operational events outside of normal training and alliance commitments; by comparison, from 1991 to 1998 the army conducted twenty-six operational events. The United States Marine Corps undertook fifteen contingency operations between 1982 and 1989, but conducted sixty-two such operations

⁵³⁹ Thomas K. Adams, "Private Military Companies: Mercenaries for the 21st Century," *Small Wars & Insurgencies* 13, no. 2 (2002): 54-67.

⁵⁴⁰ Volker Franke and Marc Von Boemcken, "Private Guns: The Social Identity of Security Contractors," *Journal of Conflict Studies* (2009), 10.

⁵⁴¹ Government Accountability Office, *Military Readiness: Management Focus Needed on Airfields for Overseas Deployments* (Washington, DC: Government Accountability Office, 2001), 10.

after the fall of the Berlin Wall.⁵⁴² The dwindling military force structure combined with the mission creep of stability operations created a post–Cold War security vacuum that the budding private military industry was eager to fill. The United States hired MPRI to train and equip Croatian, Bosnian and Macedonian forces for over \$150 million.⁵⁴³ The State Department contracted DynCorp International to provide ‘peace verifiers’ in Kosovo, train Haitian police and eradicate coca plants as a part of Plan Colombia, during which three of its American crop-duster pilots were shot down and killed.⁵⁴⁴ Lacking its own full complement of forces, the United States permitted the private military industry to perform tasks traditionally associated exclusively with the national armed forces. As Tim Spicer of Sandline International explains:

The end of the Cold War has allowed conflicts long suppressed or manipulated by the superpowers to re-emerge. At the same time, most armies have got smaller and live footage on CNN of United States troops being killed in Somalia has had staggering effects on the willingness of governments to commit to foreign conflicts. We fill the gap.⁵⁴⁵

Humanising War

Another factor in the new market for force is what Christopher Coker calls ‘humane warfare’. Following the Cold War the Western way of war changed: It sought to humanise war by converting it into a humane endeavour that seeks to minimise casualties on all sides, even among enemy combatants. Perhaps

⁵⁴² Flloyd Spence and Eugene J. Carroll, “Q: Is the Military Drawdown Endangering U.S. National Security?,” *Insight on the News* 14 (1998).

⁵⁴³ Singer, *Corporate Warriors*, 128.

⁵⁴⁴ “On the Ground: DynCorp and other U.S. firms provide U.S. peace verifiers to Kosovo,” *Newsweek*, February 15, 1999.

⁵⁴⁵ Andrew Gilligan, “Inside Lt Col Spicer’s New Model Army,” *Sunday Telegraph*, November 22, 1998.

the decades of living under the threat of mutually assured nuclear destruction had curdled the West's appetite for bloodshed; perhaps the rise of the human rights regime had a hand, as it required UN commanders on Balkan battlefields and elsewhere to fight with human rights lawyers by their sides to parse the excessively complex and convoluted rules of engagement on the use of force.⁵⁴⁶ Possibly the effort to sanitise war of cruelty resulted from a collective amnesia regarding war's fundamental nature in the modern memory, or conceivably it was the sight, captured on CNN, of four dead and mutilated United States soldiers being dragged through the streets of Mogadishu by gloating mobs of AK-47-wielding Somalis in 1993. Maybe it was all of this and more.⁵⁴⁷

In the almost twenty years after Somalia the United States has introduced two significant innovations to realise 'humane' warfare: armed unmanned aerial vehicles (UAVs) and the private military industry to do the dying for America. Technology such as precision-guided munitions launched from drone aircraft reduces the risk of civilian casualties and collateral damage, and it avoids the sticky situation of a United States pilot being shot down and captured or killed by the enemy. Contractors, meanwhile, are disposable human beings. The United States reveres its fallen soldiers: the media pay tribute to the dead daily; politicians running for office reflexively invoke their sacrifices; and the public demonstrates their wide support—even if they do not

⁵⁴⁶ For a tragic description on how overly restrictive and complex rules of engagement can actually cause more deaths than not, see: Marcus Luttrell and Patrick Robinson, *Lone Survivor: The Eyewitness Account of Operation Redwing and the Lost Heroes of Seal Team 10* (New York: Little, Brown and Company, 2007).

⁵⁴⁷ For more, see: Coker, *Humane Warfare*, especially 5-23.

support the wars—with bumper stickers, yellow ribbons and lapel pins (an old US Army tradition), and billboards.⁵⁴⁸ In stark contrast, no one even tallies the numbers of dead contractors, much less reveres them. Through technology and contractors, the United States need not spill much of its own blood, and thereby gives the appearance of humanising warfare, making it seem more virtuous and even a virtue in a type of humanitarian imperialism.⁵⁴⁹ Such anodyne endeavours to humanise war are delusional, as Clausewitz cautions:

Kind-hearted people might of course think there was some ingenious way to disarm or defeat an enemy without too much bloodshed, and might imagine this is the true goal of the art of war. Pleasant as it sounds, it is a fallacy that must be exposed: war is such a dangerous business that the mistakes which come from kindness are the very worst.⁵⁵⁰

Nonetheless, private armies became an attractive option for the United States well before the wars in Iraq and Afghanistan, which themselves have been literal boom times for the private military industry.

The Utility of Private Force

The appeal of private force is understandable regardless of century. Even Sir Thomas More advocated using mercenaries.⁵⁵¹ Despite the protestations of

⁵⁴⁸ Newspapers such as *The New York Times* list the names of the dead daily and television news shows like the *PBS News Hour* have somberly honoured dead United States soldiers nightly since the beginning of the Iraq and Afghanistan wars; politicians and many Americans frequently wear 'hero bracelets' to commemorate an individual fallen soldier. In the 2008 presidential campaign, McCain's hero bracelet honoured Army Specialist Matthew Stanley and Obama's bracelet honoured Sgt. Ryan David Jopek. Tradition has it that during the American Civil War the wives of United States (Union) cavalry officers wore yellow ribbons or tie yellow ribbons around trees to express their undying love for their cavalry husbands. Yellow was and remains the colour of the US Army cavalry.

⁵⁴⁹ Coker, *Humane Warfare*, 125. See also: Christopher Coker, *Waging War Without Warriors?: The Changing Culture of Military Conflict* (Boulder, CO: Lynne Rienner Publishers, 2002).

⁵⁵⁰ Clausewitz, *On War*, 75.

⁵⁵¹ Thomas More, *Utopia*, Penguin Classics ed. (New York: Penguin Classics, 2003), 93.

Catherine of Siena in the Middle Ages or NGOs such as Human Rights First today, private armies are big business for a reason: They work. The military advantages that mercenaries provide employers are significant and timeless.

First, mercenaries offer on-demand military services to execute whatever plans the employers please, from buttressing national security, furthering a commercial interest, settling a dispute, self-glorification or self-preservation. In an insecure world, there will always be a demand for security services. The *condottieri* made their livelihoods surfing the maelstrom of armed politics that pervaded northern Italy during the high Middle Ages, so much so that some mercenary captains became political actors in their own right, such as Braccio da Montone and Sigismondo Malatesta, who ruled lands in addition to private armies.⁵⁵² Others, such as Francesco Sforza of Milan, became so strong that they took over the states they served, becoming Olson's stationary bandits as warlord became lord.

On-demand soldiers also allow rulers to swell their armies' ranks with mercenaries when volunteers or conscripts are lacking. Examples are numerous: William the Conqueror in the eleventh century; England, France and Prussia in the eighteenth century; and the United States in Iraq and Afghanistan today. In each of these cases, for-hire soldiers comprised one-third to one-half of the overall military strength. On-demand force also allows

⁵⁵² Michael Mallett, *Mercenaries and Their Masters: Warfare in Renaissance Italy* (London: The Bodley Head Ltd, 1974); F.C. Lane, "Economic Consequences of Organized Violence," *Journal of Economic History* 18, no. 4 (1958): 401-417; William P. Caferro, "Warfare and Economy in Renaissance Italy," *Journal of Interdisciplinary History* 39, no. 2 (2008), 170.

a surge capacity to serve the immediate strategic needs of rulers who fail to plan. When England found that it did not possess enough ground troops to suppress its rebellious colonies during the American War of Independence (1776–81), England doubled its army by hiring 30,000 German soldiers. Two hundred years later the United States is in a similar position to its former foe: Half of its military force structure is made up of contractors and the United States cannot fight without them.

Second, if handled properly private armies are cheaper than public ones, as maintaining a year-round professional standing army is expensive regardless of era. The tax revenue required to field, maintain and manage such a force is sizable, involving capital costs such as barracks and siege engines and sustaining costs such as salaries and upkeep.⁵⁵³ Removing citizens from economically productive jobs such as farming or factories to stand in the ranks of an army is a significant opportunity cost to the country's economy, as the military does not produce a commodity that can be sold for profit and taxed. Some economists view military expenditure as essentially inflationary.⁵⁵⁴ Finally,

⁵⁵³ Jurgen Brauer and Hubert Van Tuyll, *Castles, Battles, & Bombs: How Economics Explains Military History* (Chicago: University of Chicago Press, 2008), 86; Phillipe Contamine, *War in the Middle Ages* (Oxford: Wiley-Blackwell, 1986), 157-158; Charles Bayley, *War and Society in Renaissance Florence* (Toronto: University of Toronto Press, 1961), 3; Geoffrey Trease, *The Condottieri: Soldiers of Fortune* (New York: Holt, Rinehart and Winston, 1971), 22.

⁵⁵⁴ For an overview of this debate, see: Harvey Starr, et al., "The Relationship Between Defense Spending and Inflation," *Journal of Conflict Resolution* 28, no. 1 (1984): 103-122; Abdur R. Chowdhury, "A Causal Analysis of Defense Spending and Economic Growth," *Journal of Conflict Resolution* 35, no. 1 (1991): 80-97; Saadet Deger, "Economic Development and Defense Expenditure," *Economic Development and Cultural Change* 35, no. 1 (1986): 179-196.

governments tend not to be as innovative or efficient as business in operations, as companies keep costs down out of existential necessity.⁵⁵⁵

The cost savings of private armies is confirmed in modern times. Examining the cost effectiveness of PMCs in Iraq, the United States Congressional Budget Office (CBO), an official government agency charged with reviewing congressional budget issues, found private military contractors to be cheaper than the US Army. According to CBO estimates, the army's total cost of operating an infantry unit in Iraq was \$110 million, while hiring the same size unit from Blackwater to perform the same tasks during the same time period was only \$99 million. In peacetime the cost differential jumps even more. The cost of maintaining an army infantry unit at home is \$60 million, whereas the cost of Blackwater is nothing, since the PMC's contract would be terminated.⁵⁵⁶ As Secretary of Defence Donald Rumsfeld explained,

It is clearly cost effective to have contractors for a variety of things that military people need not do, and that for whatever reason other civilians, government people, cannot be deployed to do. There are a lot of contractors, a growing number. They come from our country but they come from all countries, and indeed sometimes the contracts are from our country or another country and they employ people from totally different countries including Iraqis and people from neighbouring nations. And there are a lot of them. It's a growing number.⁵⁵⁷

Mercenaries are also cost-effective for long-term engagements; historically, some employers used the same private military organisation for

⁵⁵⁵ Coker, *Outsourcing War*, 108.

⁵⁵⁶ *Contractors Support of US Operations in Iraq*, 17.

⁵⁵⁷ Donald Rumsfeld, "Secretary Rumsfeld's Remarks to the Johns Hopkins, Paul H. Nitze School of Advanced International Studies," accessed February 3, 2011, <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=1361>.

over a century to wage war on the cheap. Mercantile firms such as the East India companies were licensed to raise armed forces and war in service of their countries' economic interests while sparing their governments the headache of managing global military and trade operations. By the turn of the nineteenth century, the British East India Company boasted an army of 150,000 soldiers and 122 ships of the line, the larger ones mounting up to forty guns, a match for all but the most powerful enemy warships.

Third, mercenaries can also prove safer than public armies, as they reduce the risk of praetorianism, a term deriving from the infamous Praetorian Guard, the imperial bodyguard of the Roman emperors established by Augustus Caesar. During its 300-year existence, it assassinated fourteen emperors, appointed five and even sold the office to the highest bidder on one occasion. Rulers may feel safer with transient mercenaries, such as the Varangian Guard in Byzantium, than with an institutionalised security force that serves only its own interests. Furthermore, mercenaries' bought loyalties may prove more reliable than public armies in the case of internal conflict and civil war. King Henry II of England engaged mercenaries to suppress the great rebellion of 1171–74 because their devotion lay with their paymaster rather than with the ideals of the revolt. In 2011 Libyan president Moammar Qaddafi adopted the same approach and hired mercenaries to violently quash national protests and fight rebellious army units.⁵⁵⁸

⁵⁵⁸ Joshua Keating, "How to Hire a Mercenary," *Foreign Policy* (February 24, 2011).

Mercenaries may be appealing when a ruler does not want to arm an aggrieved populace that could potentially mutiny or menace other members of society.⁵⁵⁹ As the medieval Venetian poetess Christine de Pizan makes clear, ‘there is if I may dare so no greater folly for a prince, who wishes to hold his lordship freely and in peace, than to give the common people permission to arm themselves’.⁵⁶⁰ Likewise, there was rich debate among the American founding fathers in the discussions over the United States Constitution in the 1780s over the wisdom of standing armies. Anti-federalists feared an unemployed army could become a public menace by preying on the populace it was tasked to protect, and even federalists such as Alexander Hamilton acknowledged the danger.⁵⁶¹ The relative security of mercenaries, of course, relies on the ruler and mercenaries both honouring their contracts. Princes who do not pay their bills may become victims of their own mercenaries, and greedy mercenaries may wish to treacherously renegotiate their contracts with violence. Although praetorianism by PMCs is not a real risk for the United States today, despite the frenzied forebodings of Pulitzer Prize-winning journalists and Hollywood, it remains a threat for fragile states that dabble in the market for force.⁵⁶²

⁵⁵⁹ Contamine, *War in the Middle Ages*, 156, 158; Brauer and Van Tuyl, *Castles, Battles, & Bombs*, 86.

⁵⁶⁰ Charity Willard, *The “Livre De Paix” of Christine De Pisan: A Critical Edition* (The Hague: Mouton, 1958), 133.

⁵⁶¹ Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA: Belknap Press of Harvard University Press, 1992), 356-357. On Hamilton’s concerns, see Publius [Alexander Hamilton], “Consequences of Hostilities Between States,” *Federalist Papers* 8 (November 27, 1787), Publius [Alexander Hamilton], “The Idea of Restraining the Legislative Authority in Regard to the Common Defense Considered,” *Federalist Papers* 26, (December 22, 1787).

⁵⁶² Chris Hedges, “What if Our Mercenaries Turn on Us?,” *The New York Times*, June 3, 2007.

Fourth, mercenaries provide specialised military skills and services that are too expensive for ordinary public militaries to sustain. Like all market actors, private military organisations seek out gaps between supply and demand and attempt to fill them, taking advantage of economies of scale to develop capabilities such as armour-piercing crossbow soldiers known as *balestrieri* in the fourteenth century and Mi-24 heavy attack helicopters flown by EO in the late twentieth century. The costs associated with equipping, training and sustaining these specialised military units are too great for all but the wealthiest public armies, making it more efficient to outsource these capabilities when needed. In addition to exotic military units, private military organisations also provide rare skill sets: the ninja and shinobi of feudal Japan were uniquely trained in unorthodox warfare, and MPRI has specific expertise in restructuring modern armed forces in developing countries. As T.X. Hammes, a retired United States Marine Corps officer, affirms, ‘contractors can execute tasks the United States military and civilian workforce simply cannot’.⁵⁶³

It is important to dispel some myths about mercenaries. Probably the most pernicious perception, made famous by Machiavelli’s bitter pronouncements, is that they are faithless.⁵⁶⁴ While there are certainly examples

⁵⁶³ T.X. Hammes, *Private Contractors: The Good, the Bad, and the Strategic Impact*, (Washington, DC: NDU Press, 2010), 5.

⁵⁶⁴ Machiavelli infamous dismissal of mercenaries may be overstated in the contemporary popular imagination. Coker explains that Machiavelli’s disapproval of private armies has less to do with their ‘faithlessness’ and more to do with the paradigm shifting nature of his times. For example, warfare was transforming to gunpowder armies that required the financial support of wealthy states over private actors, and Enlightenment ideals favoured public over private forms of violence. However, Coker also

of faithless mercenaries, perfidiousness is hardly unique to the private military industry, though the consequences are more lethal than other sectors. But in an open market for force mercenaries are incentivised to honour their contracts in order to build a positive professional reputation and attract future business. Many mercenaries have enjoyed long and esteemed relations with their employers: Hawkwood was faithful to Florence for decades and the city honoured him with a funerary monument at the Basilica di Santa Maria del Fiore; the Varangian Guard was fiercely loyal to the Byzantine emperors for centuries; and the Dutch and British East India companies served their respective nations' interests admirably for well over a hundred years. Private military actors tend to meet their contractual obligations, as long as they are accountable to customers.

Another myth is that mercenaries are lone-wolf adventure seekers. Although there are individual mercenaries or small bands of private warriors, most of the successful private armies are sizable and sophisticated organisations: Xenophon's Ten Thousand, the companies of the *condottieri* and PMCs such as Blackwater. These private militaries are well organised with clear chains of command, in-house codes of conduct and discipline and internal machinations to handle administrative tasks such as personnel, logistics and accounting. The *condottieri* formed expeditionary corporate military units

notes that Machiavelli's depictions of his changing times are not fully confirmed by the historical record. See: Christopher Coker, *Barbarous Philosophers: Reflections on the Nature of War From Heraclitus to Heisenberg* (New York: Columbia University Press, 2010), 139-151. Moreover, Carafano disputes this traditional account of Machiavelli on mercenaries, and argues that the early 'translators got it wrong': Carafano, *Private Sector, Public Wars*, 19.

comprised of international personnel with itemised budgets for battle gear, compensation for loss of horse, ransom-based revenue detailed, and other costs of war. They also had company policies regarding the democratic distribution of loot, bonuses for victories and a standardised war feast should victory be won.⁵⁶⁵ They even formed their own trade association, much like today's ISOA, of 'confederated *condottieri*'.⁵⁶⁶

Finally, the stereotype that mercenaries are little more than murderous thugs is unfair. The marketplace tends to discipline bad mercenaries, as it did in the Middle Ages. When the famed Hawkwood switched sides one too many times during the War of Eight Saints, Bernabo Visconti of Milan passed a decree promising thirty florins to anyone who 'took or killed' a member of Hawkwood's company.⁵⁶⁷ Similarly, Blackwater saw its business with the United States plummet after the Nisour Square incident, and in 2009 the State Department did not renew the PMC's contract.⁵⁶⁸

Those who cavil too much about ethical issues surrounding mercenaries ought not avert their eyes from the obvious: There is plenty of evidence that private armies are more disciplined and effective than public forces in Sudan, Somalia, Myanmar, Belarus, Chad, Zimbabwe, the DRC, Iraq, Afghanistan, Guinea, Kirgizstan, the Central African Republic, Tajikistan or Côte d'Ivoire, to name a few. Some even await the day when the United

⁵⁶⁵ William Caferro, "Italy and the Companies of Adventure in the Fourteenth Century," *Historian* 58, no. 4 (1996): 795, 805-806; Brauer and Van Tuyl, *Castles, Battles, & Bombs*, 91; Mallett, *Mercenaries and Their Masters*, 27.

⁵⁶⁶ Bayley, *War and Society in Renaissance Florence*, 11.

⁵⁶⁷ Caferro, "Italy and the Companies of Adventure in the Fourteenth Century," 799.

⁵⁶⁸ "No Pact for Blackwater," *Reuters*, January 30, 2009.

Nations hires qualified PMCs as peacekeepers, a rational choice given that peacekeeping needs rise each year while national troops available for such missions dwindle.⁵⁶⁹ Private military force is a high-utility commodity, which is why the market for force has thrived for most of human history.

⁵⁶⁹ Malcolm Hugh Patterson, *Privatising Peace: A Corporate Adjunct to United Nations Peacekeeping and Humanitarian Operations* (New York: Palgrave Macmillan, 2009); Alvin Toffler and Heidi Adelaide Toffler, *War and Anti-War: Making Sense of Today's Global Chaos* (New York: Grand Central Publishing, 1995), 302. To date, important peacekeeping missions whose military needs remained unfilled include Darfur, Somalia, and the DRC.

The Dark Side of Private Force

The problems of private force are as timeless as the benefits. Although today's nascent market for force is tame compared with the medieval market, the *condottieri* have much to teach us about how private violence alters strategic outcomes. Already parallels between the Middle Ages and today are apparent. Like the mercenary companies of old, PMCs are corporate organisations that provide private military services for profit, constitute their ranks with ex-military personnel drawn from around the world and gravitate toward conflict markets. In the Middle Ages the largest conflict market was Northern Italy; today it is Iraq and Afghanistan. The United States' experience with private force is also distorting international outcomes in ways consistent with the Middle Ages because privatizing war changes warfare.

For-Profit Killing

Linking armed conflict with profit motive incentivises private armies to prolong war for financial gain, which many will find morally repugnant.⁵⁷⁰ In Afghanistan today, Matiullah Khan leads an indigenous private army employed by NATO and earns millions of dollars guarding supply convoys and fighting Taliban insurgents alongside United States special forces. Like the *condottieri* of old, his monopoly of force is so great that he eclipses the authority of the

⁵⁷⁰ While recognizing the important normative aspects of mercenarism, a moral examination of the topic is beyond the scope of this thesis. For an interesting discussion, see: Lynch and Walsh, "The Good Mercenary?"; Percy, *Mercenaries: The History of a Norm in International Relations*; C.A.J. Coady, "Mercenary Morality," in *International Law and Armed Conflict*, ed. A.G.D. Bradnev (Stuttgart: Franz Steiner Verlag, 1992): 55-69.

provincial government, appointing public officials and doling out government largesse to further his business interests. Nor is Matiullah Khan alone. According to Hanif Atmar, the Afghan interior minister, Matiullah is one of at least twenty-three native PMCs working in the area without any government license or oversight. Major General Nick Carter, commander of British forces in Marja and of NATO forces in southern Afghanistan, suspects that these Afghan PMCs are deliberately prolonging the fighting for profit. Both Hanif Atmar and General Carter said they would like to disband Matiullah's private army but cannot control him, making a volatile situation worse.⁵⁷¹

Also, markets fail, and in the market for force, failure means impunity for mercenaries—violence without constraint—because no credible police force exists to control them. Under these conditions, mercenaries devolve into marauders and prey on the weak for survival. Moreover, the market for force does not behave like other markets. A surplus of military supply does not necessarily correspond to lower private military prices or insolvent weaker mercenary companies. Instead, unemployed mercenaries can weather tough economic times by plundering local lands to feed themselves. This makes security a commodity that is not strictly demand-driven but also self-directed, generating bloody market distortions. Pope Urban V described marauding mercenaries in the fourteenth century as a 'multitude of villains of various nations associated in arms by the greed to appropriate the fruits of labour of

⁵⁷¹ Christoph Reuter, "The Warlord of the Highway," *Vice Magazine*, (November 2009).; Filkins, "Convoy Guards in Afghanistan Face an Inquiry."

innocent and unarmed people, let loose to every cruelty, to extort money, methodically devastating the countryside'.⁵⁷² When mercenaries fight in times of war and pillage in times of peace, for civilians, the line between war and peace may disappear.

Even when the market for force is functional, security is a commodity for which supply can artificially create demand through extortion. Like a mafia, a private military organisation can arrive at a community and demand payment in exchange for not attacking it. The *condottieri* made a lucrative living this way, as the most common response for communities was to purchase reprieve. In 1342, Werner of Urslingen and the Great Company made a tour of Italy and successfully extorted payment from Cesena, Perugia, Arezzo, Siena and several Lombard communes. Eleven years later the Great Company—by then numbering some 10,000—returned under the leadership of Montreal d'Albarno, whom the Italians called Fra Moriale, and extracted tribute from Pisa, Arezzo, Florence, Siena and the Malatesta of Rimini. True to their name, *condottieri* entered into a no-sack contract with local cities. The October 1381 agreement between the city of Siena and John Hawkwood stipulated that his company would not attack the city and its local lands for eighteen months in exchange for 4,000 florins.⁵⁷³ Often it was cheaper for both mercenary and mark to negotiate a price for peace rather than face the expenditure of a siege and sacking.

⁵⁷² From a bull issued by Pope Urban V on February 17, 1364. Quoted in Caferro, "Italy and the Companies of Adventure in the Fourteenth Century," 795.

⁵⁷³ Ibid, 796.

However, such payments only encouraged more mercenaries, either as racketeers or hired defenders of cities, revealing the true nature of the market for force: expansion. Consistent with Clausewitz's nature of war, competition in the market for force escalates until one market actor emerges victorious with the monopoly of force. This produces constant war since monopolies are difficult to attain. In the late thirteenth and early fourteenth centuries Florence and its mercenaries were continuously at war with someone: Pisa (1362–64), the pope (1374–75) and Milan (1389–90, 1399–1400, 1423–24, 1430). Luckless Siena was obliged to buy its freedom from enterprising *condottieri* thirty-seven times between 1342 and 1399.⁵⁷⁴ This endless fighting attracted more mercenaries from every corner of Europe, compounding the problem.⁵⁷⁵

The dynamic of the market for force presents a counter-intuitive conundrum for modern observers: Private warfare actually swells rather than depletes the ranks of private armies. To those steeped in the Westphalian way of war, great conflicts such as World War I and II were conflicts of attrition that terminated in part when one side ran out of troops.⁵⁷⁶ As the Allies marched on Berlin in 1945 the German army had insufficient soldiers left to defend the city and had to rely on old men and young boys. Japan went even

⁵⁷⁴ Ibid, 797. See also: William Caferro, *Mercenary Companies and the Decline of Siena* (Baltimore, MD: Johns Hopkins University Press, 1998).

⁵⁷⁵ From 1313 to 1360 the majority of foreign mercenaries in Italy were from Germany owing to an economic recession there. From 1360–69 they were mostly English. The French had left by 1343 and then reappeared in numbers in 1375. Hungarians began to arrive in significant numbers in the late 1340s but typically held subordinate positions. The Italians became prominent only at the beginning of the 1400s. See: Mallett, *Mercenaries and Their Masters*, 27; Brauer and Van Tuyl, *Castles, Battles, & Bombs*, 87; Stephen Selzer, *Deutsche Söldner Im Italien Des Trecento* (Tübingen: Max Niemeyer Verlag, 2001), 39–45.

⁵⁷⁶ However, notable exceptions exist such as the Spanish War (1809–14) in which Spanish guerillas fought a war of attrition against French forces under Napoleon. See: Coker, “Ethics and War in the 21st Century,” 44–52.

further. Low on soldiers, the government extended the logic of its kamikaze program to the entire populace, arming people with bamboo spears to repel the expected United States' land invasion, in what critics called 'collective suicide'.⁵⁷⁷ Conversely, battle in private wars enlarges the soldier labour pool as the lure of well-paying contracts, rich booty, knightly honor and other opportunities attract private warriors from around the world. Medieval mercenaries in northern Italy hailed from all over Europe just as PMCs in Iraq and Afghanistan are packed with foreigners and intrastate conflicts in Libya and Côte d'Ivoire have attracted mercenaries from all over Africa.⁵⁷⁸ Like all markets, supply seeks demand and supply in this case is private warriors and demand is armed conflict.

Unconstrained by nationality in their recruitment, private armies can endure wars of attrition as long as there is a paying client and enough willing men-at-arms on the planet. Such conditions only propagate private warfare: More war means more mercenaries, which gives private armies more resources to ply their trade, fostering more war. This self-feeding and ever-escalating cycle of violence generates the perpetual war that is the market for force.

Enticing War

On-demand military services make it easier and subsequently more tempting to go to war in several ways. The option of private warriors lowers war's barrier

⁵⁷⁷ John W. Dower, *Embracing Defeat: Japan in the Aftermath of World War II* (New York: Penguin Books, 2000).

⁵⁷⁸ Anna Mahjar-Barducci, "African Mercenaries in Libya, Part II," April 1, 2011, <http://www.hudson-ny.org/2008/african-mercenaries-libya-2i>. ; Simon Akam, "Liberia Uneasily Linked to Ivory Coast Conflict," *The New York Times*, March 31, 2011.

to entry for consumers. For the United States, using contractors saves the government from more painful political solutions, such as a national draft, courting unwilling or unsavory coalition partners or a premature withdrawal from Iraq and Afghanistan. Proponents and opponents of the wars admit that without contractors the United States would require a total force of 320,000 in Iraq and a force of over 210,000 in Afghanistan.⁵⁷⁹ Hiring contractors in domestically unpopular wars also allows the government to dodge national political debate over whether the wars should end, since few Americans care about contractor casualties.

Similarly, when a policy is politically too risky, outsourcing it to the private sector offers employers a layer of plausible deniability in the event of failure. Not surprisingly, the origins of plausible deniability are tightly bound to non-state violence. State rulers invented the concept at the turn of the seventeenth century to give themselves political cover for dubious ventures. If a private undertaking authorised by the ruler met with success, he or she could claim a share of the profits, but if it met with failure, the ruler could claim he or she was not responsible.⁵⁸⁰ Plausible deniability was especially useful when using private forces could accidentally draw the state into war with another state. Since the end of the Cold War governments have relied on the industry for clandestine and covert operations. Clandestine operations are those that the United States hopes will remain secret, but if exposed, will either admit to or

⁵⁷⁹ Hammes, *Private Contractors*, 10.

⁵⁸⁰ Thomson, *Mercenaries, Pirates, and Sovereigns*, 21.

simply remain silent on; covert operations the United States will always disavow. Typically the United States only uses PMCs for clandestine operations, which is a legal gray area, whereas only the CIA and Department of Defence are authorised under federal law to conduct covert operations.⁵⁸¹ The United States employs private spy firms for intelligence collection. These firms are typically founded by ex-CIA personnel, such as Cofer Black, the chairman of Total Intelligence Solutions, a subsidiary of Blackwater.⁵⁸² Similarly, former CIA spy Duane Clarridge runs a network of contracted spies in Pakistan and Afghanistan to collect information on militant fighters, Taliban leaders and the inner workings of Kabul's ruling class.⁵⁸³ Michael D. Furlong created a private spy ring to track militants in Afghanistan and Pakistan for \$22 million, although senior Pentagon officials claim Furlong 'deliberately misled' senior generals when journalists questioned the contract⁵⁸⁴—a safe claim for the United States to make if a politically embarrassing operation fails or is exposed.

Plausible deniability also allows the government to hide secrets from itself, especially official oversight mechanisms. The United States use of contractors allows the executive branch a method of circumventing congressional oversight because there is (at present) little requirement to report on the activities of contractors. The State Department, DOD and intelligence

⁵⁸¹ Based on author's experience as a program manager for DynCorp International.

⁵⁸² Dana Hedgpeth, "Blackwater's Owner Has Spies for Hire," *The Washington Post*, November 3, 2007.

⁵⁸³ Mazzetti, "Former Spy With Agenda Operates a Private C.I.A."

⁵⁸⁴ Mark Mazzetti, "U.S. Is Still Using Private Spy Ring, Despite Doubts," *The New York Times*, May 15, 2010).

agencies all have dedicated congressional oversight committees. Members of Congress are continually concerned with the deliberate lack of executive branch transparency regarding contractors; according to a 2008 Congressional Research Service investigation, ‘as oversight hearings have demonstrated, the executive branch either has not kept sufficient records to produce or has been unwilling to present basic, accurate information on the companies employed under United States government contracts and subcontracts in Iraq’.⁵⁸⁵ This impedes oversight and quality control, evidenced by the repeated reports of substandard construction, fraud and theft in Afghanistan and Iraq.⁵⁸⁶ More generally, the White House can exploit the oversight loopholes to prosecute war while politically insulating itself with plausible deniability. In this way the private military industry fosters moral hazard among decision makers to enter and remain at war.

Dilemmas with Contract Warfare

Doug Brooks, president of ISOA, once made a case for the privatisation of warfare this way: ‘write a check, end a war’.⁵⁸⁷ While appealing, it is obviously simplistic, even if there are some examples of it, such as EO’s involvement in Sierra Leone. Generally, contract warfare is fraught with difficulties, especially in contract enforcement. According to Jurgen Brauer and Hubert van Tuyll,

⁵⁸⁵ Elsea, *Private Security Contractors in Iraq*, 41-42.

⁵⁸⁶ For a concise analysis, see: Elsea, *Private Security Contractors in Iraq*; Schwartz, *The Department of Defense’s Use of Private Security Contractors in Iraq and Afghanistan*; Hammes, *Private Contractors*. See also: “Special Inspector General for Afghanistan Reconstruction,” SIGAR, accessed February 17, 2011, <http://www.sigar.mil/>; “Special Inspector General for Iraq Reconstruction,” SIGIR, accessed February 17, 2011, <http://www.sigir.mil/>.

⁵⁸⁷ Doug Brooks, “Write a Cheque, End a War,” *Conflict Trends* 3, no. 1 (2000): 33–35.

the challenge of holding parties to contractual promises eventually put the *condottieri* out of business.⁵⁸⁸ There was not—nor is there today, at present—an effective judicial system to enforce contracts in the market for force. This allows both the client and mercenary to double-cross one another, which led to all manner of deceitfulness in the Middle Ages. For contracts to work without law enforcement, there must be trust between the consumer and the agent contracted to perform military services that the terms of the contract will be honoured. But trust is a rare commodity in the market for force; as the fourteenth-century Italian novelist Franco Sacchetti put it, in mercenaries ‘there is neither love nor faith’.⁵⁸⁹ The consumer-agent problems that plague contract warfare can result in treachery and tragedy for consumers, providers and bystanders alike in the market for force.

The moral hazards in the market for force extend beyond plausible deniability. Moral hazard occurs when shielding a party from risk causes it to behave differently than it would if it were exposed to the risk.⁵⁹⁰ In contract warfare it is difficult for the principal to observe what a private military organisation does during a campaign, and mercenaries can exploit this asymmetry of information for profit. To alleviate this problem, medieval customers would have representatives called *provveditori* travel with and monitor the hired mercenary companies during the campaign and even goad them into battle to ensure they did not shirk their obligations. However, this was a

⁵⁸⁸ Brauer and Van Tuyl, *Castles, Battles, & Bombs*, 96.

⁵⁸⁹ Quoted in Caferro, “Italy and the Companies of Adventure in the Fourteenth Century,” 801.

⁵⁹⁰ Bengt Holmstrom, “Moral Hazard in Teams,” *The Bell Journal of Economics* 13, no. 2 (1982): 324.

defective system, as *condottieri* could manipulate key information, such as intelligence on the enemy that only the *condottieri* knew, to unduly influence the *provveditori* to make business decisions in favour of the *condottiero's* interests rather than the client's. Or *condottieri* could simply ignore the *provveditori* and allow themselves to be outbid on the field of battle, turning against their original employers. This is precisely what happened to the Milanese at Canturino in 1363, when its entire Hungarian contingent went over to the enemy. During their war with Pisa in 1364, the Florentines successfully bought off Pisa's mercenaries amassed before its walls.⁵⁹¹ Who was managing whom?

Similar asymmetries of information exist between the United States and the private military industry that the industry can exploit for profit. The bureaucracy needed to competently oversee contractors did not grow commensurately with the industry during the Iraq and Afghanistan boom years, and as a result, the government lacks the capacity to manage the industry, as the Gansler report and other government studies repeatedly show.⁵⁹² A 2010 United States inspector general's investigation found that the State Department completely failed to supervise DynCorp International and other firms that were paid \$1.6 billion to build the Afghan National Police.⁵⁹³

⁵⁹¹ William Caferro, "Continuity, Long-Term Service, and Permanent Forces: A Reassessment of the Florentine Army in the Fourteenth Century," *The Journal of Modern History* 80, no. 2 (2008): 249.

⁵⁹² For information regarding the inadequate levels of training for government officials responsible for managing contractors see: *Commission on Army Acquisition and Program Management in Expeditionary Operations. Urgent Reform Required: Army Expeditionary Contracting* (AKA 'Gansler Report'). October 31, 2007, 43.; Moshe Schwartz, *Training the Military to Manage Contractors During Expeditionary Operations: Overview and Options for Congress* (Washington, DC: Congressional Research Service, 2008), 4.

⁵⁹³ Department of Defense, Office of the Inspector General, *DOD Obligations and Expenditures of Funds Provided to the Department of State for the Training and Mentoring of the Afghan National Police* (Washington, DC: 2010).

To avoid this problem, the United States deploys modern *provveditori*, called contracting officer's technical representatives (COTRs), into the field to oversee the government's interests, but like the Middle Ages this system is deficient. There are insufficient numbers of COTRs, those that exist receive inadequate training and they lack the needed tools and authority to manage multi-million dollar contracts in conflict zones.⁵⁹⁴ Owing to this, COTRs are vulnerable to manipulation in the same manner as *provveditori* because they are often too reliant on contractors' specialised knowledge and access to key information to make important decisions regarding the contract. This represents a clear conflict of interest: Contractors, like the *condottieri*, are incentivised to share only expert opinion or information that lengthens or expands their contract for profit.

That the mercenaries can themselves be cheated is another type of moral hazard; if a manager cannot be fired because they are protected by nepotism or cronyism, then that manager can treat his or her employees unprofessionally with impunity. Strong principals in the market for force can renege on paying their mercenaries without fear of consequence. In the Middle Ages, a scammed mercenary company could attempt to attack their unfaithful employer, but may have been too weak to do so after a long military campaign. Furthermore, the employer could hire a fresh company at a fraction of the price to chase off the remnants of the war-weary company. Some principals

⁵⁹⁴ Ibid, 11; See also: David Isenberg, "Earth to Government: Less CORS Equal Higher Risk of Fraud," March 1, 2010, http://www.cato.org/pub_display.php?pub_id=11409.

were also relatively untouchable. Pope Gregory XI was infamous for lack of payment during the War of Eight Saints and drove Hawkwood and half of the Breton companies to defect to his enemies. As in the Middle Ages, there are at present few options for PMCs whose customers have backed out of their contracts. The market for force is inherently a distrustful environment that encourages both principal and agent to behave in treacherous ways, which is dangerous in the context of war.

Neomedieval Warfare

As the world has become more neomedieval since the end of the Cold War, so has warfare. Westphalian war, as elucidated by Clausewitz and exemplified by World War I and II, is fought between powerful states via national militaries with a clear beginning (declarations of war), middle (decisive battlefield victory or defeat), and end (official surrenders). By contrast, today's wars, like the Middle Ages, are fought between myriad actors, both state and non-state, and though less intense than World War II they tend to persist in nebulous perpetuity without a clear beginning, middle or end. Examples of this 'new' warfare include Chechnya, the Balkans, Iraq, Afghanistan, Darfur, the DRC and West Africa.⁵⁹⁵ Unlike Westphalian warfare, neomedieval armed conflict is

⁵⁹⁵ 'New' war in this context should not be confused with the 'New War' thesis of Mary Kaldor. Kaldor claims that the contemporary nature of war is truly new: "As the centralized, territorialized modern state gives way to new types of polity emerging out of new global processes, so war, as we presently conceive it, is becoming an anachronism", Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era*, 2nd ed. (Stanford: Stanford University Press, 2007), 17. To this Colin Gray ripostes: "Careless reference to the allegedly 'changing nature of war' fuels expectations of dramatic, systemic developments that are certain to be disappointed. The nature of war in the 21st century is the same as it was in the 20th, the 19th, and indeed, in the 5th century BC": Colin S. Gray, "How Has War Changed Since the End of the Cold War?," *Parameters* 35, no. 1 (2005): 14-26. The author views the nature of war as unchanging yet the

often fought by armed non-state actors for non-state objectives using irregular warfare tactics and strategies with scant regard for the laws of war or human rights norms. Van Creveld predicts this transformation of war as early as 1991, and warns the future of war ‘will be protracted, bloody, and horrible’.⁵⁹⁶

General Sir Rupert Smith goes even further and argues that Westphalian warfare is dead. Smith wrote *The Utility of Force* after forty years in the British army that included integrating the Zimbabwe African National Union-Popular Front (ZANU-PF) and the Zimbabwe African People’s Union (ZAPU), commanding the UK Armoured Division in the (first) Gulf War, leading UN forces in Bosnia in 1995, and commanding UK forces in Northern Ireland from 1996 to 1999. He finished his career as the deputy commander of NATO during the Kosovo War. After this long career, his conclusion about the future of warfare is stark: ‘War as cognitively known to most non-combatants, war as battle in a field between men and machinery, war as a massive deciding event in a dispute in international affairs: such war no longer exists’.⁵⁹⁷ Interstate war waged between what he calls ‘industrial’ national militaries have been replaced by low-tech yet enduring ‘war amongst the people’ such as ethnic conflicts in the Rwanda, Iraq, Bosnia, Kosovo, Afghanistan and so on. These wars are waged by armed non-state groups, blur the lines between civilian and combatant, can span several generations, and are

character of warfare as transforming from Westphalian to neomedieval. This does not suggest that ‘conventional’ interstate wars are an ‘anachronism’; only that they will become more rare.

⁵⁹⁶ Van Creveld, *The Transformation of War*, 212.

⁵⁹⁷ Smith, *The Utility of Force*, 1.

fought for malleable non-state ends rather than the hard objective of defeating other states.⁵⁹⁸

This formulation of warfare is essentially neomedieval as it describes armed competition between non-state actors with overlapping authorities and loyalties. The objective of war amongst the people is to ‘influence the opponent, to change or form an intention, to establish a condition and, above all, to win the clash of will’ rather than seizing territory, concessions from another state, or some other Westphalian calculation of gain.⁵⁹⁹ To be clear, Smith does not claim that conventional warfare is dead but the risk of nuclear annihilation makes them too risky. Instead, politics at odds with one another alternate between periods of ‘conflict’ and ‘confrontation’. Neomedieval warfare endures in a lower-intensity yet unending armed conflict that epitomizes ‘durable disorder’.

Private armies are among the new actors waging neomedieval war, further blurring the distinction between combatant and civilian as well as war and peace. The over-utilisation of private military organisations can produce strategic surprises and failures in war. In the Middle Ages war was so specialised and monopolised by private actors that city-states and other political entities were absolutely dependent on them in war, nor could the *condottieri* survive without the patronage of warring clients. Today half of the United States military structure is comprised of contractors and the

⁵⁹⁸ Ibid, 17.

⁵⁹⁹ Ibid, 182.

superpower cannot wage war without them. This creates an existential co-dependency between political authorities and the private military industry that warps warfare and strategic outcomes in unexpected ways.

One unintended consequence of contract warfare is the growing United States dependence on the private military industry to deliver victory in modern warfare. United States military campaigns proceed in five phases. Phase 0 is conflict prevention; phase 1 is the decision to deter or engage the enemy; phase 2 is seizing the initiative to outmanoeuvre the enemy; phase 3 is decisive operations to defeat the enemy on the field of battle; and phase 4 is post-conflict transition and stability operations.⁶⁰⁰ In Westphalian warfare, decisive victory was seen as an outcome of great battles in phase 3—akin to Napoleon’s defeat at Waterloo or the World War II naval battle at Midway between the United States and Japan⁶⁰¹—that determined the course of the war and world politics. As Clausewitz explains, ‘combat is the only effective force in war; its aim is to destroy the enemy’s forces as a means to a further end’.⁶⁰²

However, victory is different in neomedieval warfare. According to Smith, the limited effectiveness of Western militaries since the end of the Cold War, as in the Balkans and elsewhere, reflects their continued focus on Westphalian war despite the emergence of a new paradigm of armed conflict, and concludes that in modern war the utility of force is diminished.

⁶⁰⁰ Charles F. Wald, “New Thinking At USEUCOM: The Phase Zero Campaign,” *Joint Forces Quarterly* 43 no. 1 (Washington, DC: NDU Press, 2006), 72-75.

⁶⁰¹ Paul S. Dull, *A Battle History of the Imperial Japanese Navy, 1941-1945* (Annapolis, MD: Naval Institute Press, 2007), 166; Gordon W. Prange, *Miracle At Midway* (New York: McGraw-Hill Companies, 1982), 395.

⁶⁰² Clausewitz, *On War*, 97.

Contrasting Clausewitz, he concludes that ‘the strategic object cannot now be achieved through the singular use of massive military force alone; in most cases military force can only achieve tactical results’.⁶⁰³ Recent experiences in Iraq and Afghanistan confirm this, as success in phase 3 is no longer the decisive variable in a military campaign when determining victory. There is no greater metaphor of this than the image of President George W. Bush standing on the deck of the United States aircraft carrier *Abraham Lincoln* and declaring ‘victory’ with a large ‘Mission Accomplished’ banner behind him after phase 3 combat operations ended in Iraq, just a few weeks after the invasion began. Few observers today would claim the United States accomplished its mission on that brisk day in 2003, and the United States remains embroiled in Iraqi internal warfare well after Bush’s departure from the White House.⁶⁰⁴

Today there is broad consensus that phase 4 operations are now as important—if not more so—than phase 3 when assessing victory. This strategic paradigm shift is evidenced by the advent of National Security Presidential Directive 44⁶⁰⁵ and the Defence Science Board Task Force on stability operations, all of which decree post-conflict and stability operations a

⁶⁰³ Smith, *The Utility of Force*, 378. See also Coker’s section on ‘War Without Victory’ in: Christopher Coker, *War in an Age of Risk* (Cambridge: Polity Press, 2009), 118-122.

⁶⁰⁴ On the fifth anniversary of this event, the media pressed White House Press Secretary Dana Perino to reflect on this banner. Perino admitted the administration misjudged the moment and helpfully suggest the banner should have read: ‘Mission Accomplished For These Sailors Who Are On This Ship On Their Mission’. (White House press conference, April 30, 2008).

⁶⁰⁵ ‘Stability operations are a core U.S. military mission that the Department of Defense shall be prepared to conduct with proficiency equivalent to combat operations.’ DOD Directive 3000.05, September 16, 2009, <http://www.dtic.mil/whs/directives/corres/pdf/300005p.pdf>.

strategic imperative on par with combat operations.⁶⁰⁶ Similarly, the 2006 Quadrennial Defence Review recognises that a core DOD mission should be conflict prevention, or phase 0, to ‘prevent problems from becoming crises and crises from becoming conflicts’.⁶⁰⁷ Because decisive victory may require years of low-intensity conflict, the costs of sustaining a modern military campaign are prohibitively high, which is why Defence Secretary Robert Gates recommended the military focus on capabilities that ‘prevent festering problems from growing into full-blown crises which require costly—and controversial—large-scale American military intervention’.⁶⁰⁸

Like the Middle Ages, the private military industry is responding to market demand and quickly monopolising skills pertaining to phase 0 and 4 operations, making the United States increasingly dependent on the private sector for victory in neomedieval warfare. Private military companies’ support of phase 0 and 4 operations include KBR repairing Iraq’s infrastructure and managing complex logistical operations country-wide; Blackwater, DynCorp International and Triple Canopy protecting critical Iraqi infrastructure and leadership; MPRI training and equipping Afghanistan police; PAE building new military bases for indigenous security forces; and Lincoln Group

⁶⁰⁶ “National Security Presidential Directive 44: Management of Interagency Efforts Concerning Reconstruction and Stabilization,” December 7, 2005, <http://www.fas.org/irp/offdocs/nspd/nspd-44.html>; DOD Directive 3000.05; November 28, 2005, http://www.fas.org/irp/doddir/dod/d3000_05.pdf; Defense Science Board, *Institutionalizing Stability Operations within DOD: Report of the Defence Science Board Task Force*, September 2005, <http://policy.defense.gov/solic/refdocs/DSB%202005%20Institutionalizing%20Stability%20Operations%20with%20DoD.pdf>.

⁶⁰⁷ *Quadrennial Defence Review*, February 6, 2006, <http://www.defense.gov/qdr/report/Report20060203.pdf>, 17.

⁶⁰⁸ Thom Shanker, “Warning Against Wars Like Iraq and Afghanistan,” *The New York Times*, February 25, 2011.

conducting strategic communications in Iraq. Many of the lessons that informed the army's recent field manual 3-07 on stability operations were drawn from private-sector experiences.⁶⁰⁹ Moreover, many of the specialised skills developed by these firms are considered proprietary knowledge, and government must hire the company to benefit from that capability. Just as the United States is dependent on the private sector to provide its military manpower (see Figure 5, p. 215), it is also reliant on companies to furnish specialized skills sets necessary to win the peace.

The United States is correspondingly vulnerable to strategic defeat when contractors fail. In 2010, the NATO-led International Security Assistance Force (ISAF) mission in Afghanistan determined that DynCorp had failed in its contract to train and mentor the Afghan police.⁶¹⁰ General Stanley McChrystal, then-commander of ISAF, stated that the police were one of the most crucial elements of his campaign plan, and a United States government investigation into the matter concluded that DynCorp's failure 'hampers the ability of DOD to fulfill its role in the emerging national strategy'.⁶¹¹ The ramifications are far worse when PMCs fail. On 16 September 2007, personnel from the Blackwater opened fire on innocent Iraqi citizens while escorting a United States diplomatic convoy at a Baghdad traffic circle in Nisour Square. The attack was unprovoked, according to eyewitnesses, and resulted in the

⁶⁰⁹ The author was a reviewer of this field manual, especially Chapter 6 on security sector reform, based on experiences gained in the private military sector.

⁶¹⁰ Pratap Chatterjee, "U.S. DynCorp Oversight in Afghanistan Faulted," *Inter Press Service*, February 27, 2010.

⁶¹¹ Hammes, *Private Contractors*, 9; DOD *Obligations and Expenditures of Funds Provided to the Department of State for the Training and Mentoring of the Afghan National Police*, 8.

deaths of seventeen Iraqi civilians.⁶¹² Because PMCs are immune from Iraqi law, the killers literally walked away from the scene of the crime free and clear of wrongdoing. Order 17 from the Coalition Provisional Authority states that ‘contractors shall be immune from Iraqi legal process with respect to acts performed by them pursuant to the terms and conditions of a Contract or any sub-contract thereto’.⁶¹³ Neither Blackwater nor its employees who killed the civilians faced criminal proceedings.

Indignation over the immunity and impunity of PMCs was fast and unequivocal by both anti-American insurgents and pro-American Iraqis alike, dealing a serious setback to the United States counter-insurgency strategy of ‘winning hearts and minds’ among the Iraqi population. Radical Shi’ite cleric Muqtada al-Sadr, leader of the Mahdi Army that spearheaded the first major armed confrontation against the United States-led occupation forces, demanded the expulsion of these ‘criminals’ from Iraq. Baghdad resident Halim Mashkoor seemed to encapsulate Iraqi anger at large when he decried, ‘We see the security firms, or the so-called American security firms, doing whatever they want in the streets. They beat citizens and scorn them. If they face a traffic jam, they start hitting cars with bottles and sometimes fire at them. I ask one question. If such a thing takes place in America or Britain, does the American president or the American citizen accept that?’⁶¹⁴ Even Iraqi

⁶¹² “Wounded Iraqis: ‘No one did anything.’”

⁶¹³ Coalition Provisional Authority, ‘*Coalition Provisional Authority Order Number 17 (Revised)*.’

⁶¹⁴ Nick Paton Walsh, “Iraq bans United States security firm Blackwater,” *Channel 4 News*, September 18, 2007, accessed April 24, 2009,

prime minister Nuri al-Maliki bluntly declared that ‘it cannot be accepted by an American security company to carry out a killing. These are very serious challenges to the sovereignty of Iraq’.⁶¹⁵ The Iraqi government banned Blackwater from operating in Iraq, demanded that the United States government end its contract with the company and called on Blackwater to pay the families \$8 million in compensation. It also sparked an intractable diplomatic dispute between the United States and Iraqi governments over the Status of Forces Agreement, lasting over a year, regarding the legal immunity of contractors and soldiers who commit crimes under Iraqi law.⁶¹⁶

The adverse effect of the PMC’s failure was not limited to Iraq, as the entire region was incensed with the impunity of Blackwater, largely seen as representative of the PMC industry and the new United States way of war. The negative public diplomacy and subsequent fallout was enough to demand Secretary of State Condoleezza Rice’s personal involvement; she quickly issued new guidelines to manage PMCs.⁶¹⁷ Many in the United States also were shocked by the incident and apparent lack of government oversight of PMCs. Five separate federal investigations were launched, led by the Federal Bureau of Investigation (FBI). Congress also investigated the incident, and the House of Representatives passed legislation on a 389–30 vote to make private

http://www.channel4.com/news/articles/politics/international_politics/iraq+bans+us+security+firm+blackwater/815062.

⁶¹⁵ Barbara Miller, “The World Today - Blackwater a challenge to Iraqi sovereignty: al-Maliki.”

⁶¹⁶ Karen Russo, Aadel Rashid, and Ali Mashakheel, “Iraq Status of Forces Agreement Causes More Strife,” *ABC News*, October 22, 2008, accessed April 23, 2009, <http://abcnews.go.com/International/Story?id=6089852&page=1>.

⁶¹⁷ “Rice orders monitoring of Blackwater in Iraq,” *MSNBC*, October 7, 2007, accessed April 23, 2009, <http://www.msnbc.msn.com/id/21162150/>.

contractors working in Iraq and other combat zones subject to prosecution by United States courts.⁶¹⁸

If United States or Iraqi soldiers killed seventeen innocent Iraqis, they would nominally be court-martialled and sentenced to years in military prison for homicide. Nothing happened to the contractors involved in the Nisour Square incident. In over seven years of activity in Iraq, no contractor has been convicted in a United States court of a crime against Iraqi citizens. Congressman Henry Waxman, the chair of the House Committee on Oversight and Government Reform, held hearings ‘to understand what has happened and the extent of the damage to United States security interests’ and concluded that ‘the controversy over Blackwater is an unfortunate demonstration of the perils of excessive reliance on private security contractors’.⁶¹⁹

Part of the ‘perils’ of armed contractors stems from the United States military’s narrow conception of strategy and failure to grasp the inherent complexity of neomedieval warfare. The military conceives strategy as an interaction between ends, means and ways.⁶²⁰ ‘Ends’ are the objectives or desired outcomes of a given strategy; literally the desired ‘end-state’. ‘Means’ are the resources, capabilities, and weapons platforms available to the

⁶¹⁸ MEJA Expansion and Enforcement Act of 2007, H.R. 2740, 110th Cong. (2007).

⁶¹⁹ Ken Fireman and Robin Stringer, “Blackwater Denies Any Wrongdoing in Shooting Incident,” *Bloomberg News*, September 17, 2007. See also: “Memorandum: Additional Information about Blackwater USA,” Majority Staff, Committee on Oversight and Government Reform, House of Representatives, October 1, 2007.

⁶²⁰ “Joint Publication (JP) 3.0: Doctrine for Joint Operations,” March 22, 2010, http://www.dtic.mil/doctrine/new_pubs/jp3_0.pdf; “Joint Publication (JP) 5.0: Joint Operation Planning,” December 26, 2006, http://www.dtic.mil/doctrine/new_pubs/jp5_0.pdf.

commander to achieve the ends; examples of means include an infantry battalion, F-22 fighter jet, or allies. 'Ways' are the methods or concepts that apply the means to achieve the ends, bridging the two. This framework is used at every level of military activity, from tactical to operational to strategic.

As warfare became more neomedieval in Africa, the Balkans and elsewhere in the 1990s, the military responded with a new doctrine called 'Effects-Based Operations (EBO)': operations aimed at producing specific outcomes or effects as opposed to merely damaging or destroying targets. The intent of EBO is to simplify complex warfare by employing sufficient force to paralyze the enemy with minimum bloodshed yet compromise the enemy's ability to engage friendly forces or allies in close combat. Unlike Westphalian warfare, EBO is not about seizing territory, capturing a capital, or destroying a rival army, as Clausewitz advocates. Instead EBO views modern armed conflict as risk management rather than war.

Anticipating risks is not new to strategists, but what is new is the type of risk: external versus internal. In Westphalian warfare, risk comes from outside the state, such as the threat that another state might ally with one's enemy. However, in a neomedieval era these risks emanate from within or across states: insurgents, terrorists, militias, trans-national criminal organisations and other armed non-state actors. Owing to this, states now wage war as a consequence management exercise in an attempt to mitigate the effects of non-state threats. As Coker clarifies, "Today we internalize risks in

the form of consequence management. And assessing the implications is made more difficult still by the multiplicity of actors we have to take into account. For the ones that count most are no longer states'.⁶²¹

EBO soon grew from a theory to a mind-set during the late 1990s, leading to conceptual incoherence and confusion within the military. The EBO approach treats war as a formulaic and process driven event that can be won with predictive precision when balancing ends, ways, means for desired effects. In other words, EBO generally treats warfare as a math problem. Finally in 2008 Marine General James Mattis, commander of the US Joint Forces Command (USJFCOM), which is responsible for crafting military doctrine, directed the termination of EBO: 'Effective immediately, USJFCOM will no longer use, sponsor or export the terms and concepts related to EBO...in our training, doctrine development and support of JPME [Joint Professional Military Education]'. Mattis went on to say, '...we must recognize that the term "effects-based" is fundamentally flawed, has far too many interpretations and is at odds with the very nature of war to the point it expands confusion and inflates a sense of predictability far beyond that which it can be expected to deliver'.⁶²² 'Treating complex warfare simply does not make it simple.

⁶²¹ Coker, *War in an Age of Risk*, 116.

⁶²² James N. Mattis, "USJFCOM Commander's Guidance for Effects-Based Operations," (2008), 22. Specifically he concludes that EBO is flawed because it: 'assumes a level of unachievable predictability; cannot correctly anticipate reactions of complex systems (for example, leadership, societies, political systems, and so forth); calls for an unattainable level of knowledge of the enemy; is too prescriptive and overengineered; discounts the human dimensions of war (for example, passion, imagination, willpower, and unpredictability); promotes centralization and leads to micromanagement from headquarters; is staff, not command, led; fails to deliver clear and timely direction to subordinates; uses confusing terminology and is difficult to understand' (20).

Despite this moratorium on EBO, the idea still lingers in military minds and this has contributed to strategic setbacks involving PMCs. EBO inhabits a constrained conceptual universe that, in the words of Mattis, ‘assumes a level of unachievable predictability’ and ‘is too prescriptive and overengineered’ and ‘discounts the human dimensions of war (for example, passion, imagination, willpower, and unpredictability)’.⁶²³ Given this lack of sophistication, it is understandable how EBO planners might assume PMCs are merely a new type of ‘means’ that behave identically to their public sector equivalents when plugged into an ‘ends, means, ways’ formula. Unfortunately this ignores the reality that PMCs are fundamentally different than their public sector counterparts, as outlined above. Also, contract warfare rewards companies for accomplishing discrete jobs only, making them extremely task focused. Blackwater was successfully conducting its mission at Nisour square—the physical protection of their clients from real or perceived threats—even to the detriment of their client’s purpose for being in Iraq. As Coker observes, ‘PSCs are rarely required to think about the consequences of their acts’.⁶²⁴ Ultimately, the very act of employing PMCs as a means changes the ways and ultimately the ends, as demonstrated at Nisour Square and elsewhere.

Conspicuously absent from the list of concerns surrounding the market for force is the question of legitimacy, which presupposes that only

⁶²³ Ibid, 20.

⁶²⁴ Coker, *Ethics and War in the 21st Century*, 143.

states or multinational organisations such as the United Nations can rightfully sanction force. This is a purely Westphalian bias that demands exposure. For example, when a group of US Marines killed twenty-four Iraqi men, women and children at the city of Haditha in 2005 and then not found guilty of any crimes, there was slight international protest compared to the Nisour Square incident despite the overt similarities.⁶²⁵ Unlike the multiple inquiries into Blackwater, the US government conducted an internal investigation into the event, led by General Eldon Bargewell, which did not fully address the core issue—the killing of civilians. Instead it focused on procedural and bureaucratic processes. It recommended the rules of engagement for combat be ‘reset’ to competently engage ‘an unscrupulous enemy’ that uses unconventional warfare tactics, and dismissed the incident as a ‘case study’ that illustrates ‘how simple failures can lead to disastrous results’.⁶²⁶ Given the stigma against private military violence, it should be expected that the Marines’ actions did not incur the same level of international outrage as Nisour Square, even though the Marines killed more Iraqi civilians than their private sector counterparts.

However today’s bias against PMCs does not invalidate the serious problems regarding the reintroduction of an industry that takes life for profit. Westphalian militaries are highly normative institutions with a cultivated sense

⁶²⁵ Of the seven Marines accused in this incident, six had all charges dropped. Charges against the seventh have been reduced from unpremeditated murder in eighteen deaths to voluntary manslaughter in nine of the twenty-four deaths, dereliction of duty and other crimes. As of March 25, 2011, these charges are still pending. Tony Perry, “Court Upholds Dismissal of Charges in Haditha Case,” *The Los Angeles Times*, March 18, 2009.

⁶²⁶ “Excerpts from Army Maj. Gen. Eldon A. Bargewell’s report,” *Washington Post*, April 21, 2007.

of patriotism and self-sacrifice. Soldiers are supposed to fight for an idea—the nation—rather than for personal gain, and they are not allowed to negotiate salaries, working conditions, unionize or go on strike. The profession maintains an unspoken covenant with the state, which provides them with food, housing, clothing, education, healthcare, subsidised goods and status. In exchange they are expected to protect the state with their lives. This ‘calling’ creates a warrior ethos that internalises concepts like ‘service’, ‘duty’, ‘honour’, ‘sacrifice’ and ‘country’ into a code of conduct that seeks to distinguish soldiers from every other segment of society, which it terms ‘civilian’.⁶²⁷

Private warriors are an affront to this code because they reject it. Unlike their Westphalian counterparts, PMCs salute something far more palpable and base than the state: profit. As Coker explains, ‘private security companies embrace the norms of the marketplace, with its attachment to the law of supply and demand....Performance is measured against the standards of the marketplace, such as efficiency and cost. Their relationship with society is highly contractual’.⁶²⁸ A growing challenge of neomedieval warfare will be reconciling these duelling models of the warrior ethos: the business-oriented view of private armies with the Westphalian idealism of public ones, especially when the former is contracted to the latter.

⁶²⁷ A good example of this is the United States Military Academy at West Point, whose motto is ‘Duty, Honor, Country’. For more on this theme, see: Charles Moskos (ed.), *The Post-Modern Military: Armed Forces after the Cold War* (Oxford: Oxford University Press, 2000).

⁶²⁸ Coker, *Barbarous Philosophers*, 150.

One response to this conundrum is curtailing or outlawing private military actors, like 1648. However efforts to regulate the industry so far are largely seen as insufficient: the ICRC's and Swiss government's Montreux Document recommending best practices; United States laws such as the Military Extraterritorial Jurisdiction Act (MEJA) of 2000; the ISOA's proposed solution of self-regulation through a voluntary code of conduct.⁶²⁹ Missing and urgently needed is an international code of practise for private military actors that moves beyond the outmoded Westphalian norms inherent in international law and recognises the neomedieval nature of the early twenty-first century. The Geneva Centre for the Democratic Control of Armed Forces (DCAF) in Switzerland has proposed such a code but it has yet to impact market practises in tangible ways.⁶³⁰ An international code embraced by all relevant actors could harness the power of private force for good rather than letting it devolve into the chaos of medieval Italy.

The next chapter examines in detail how the private military industry functions within the emerging neomedieval order through the tragic case of Liberia, where the United States hired DynCorp International to demobilise and then rebuild Liberia's military—the first time in two centuries that one sovereign nation hired a private company to raise another sovereign state's armed forces. A close examination of this process sheds light on the inner

⁶²⁹ For critiques of this, see: Avant, *The Market for Force*, 174; J. Spear, "Market Forces: The Political Economy of Private Military Companies. New Security Programme," Fafo Report 531 (2006): 46; James Cockayne, "Regulating Private Military and Security Companies: The Content, Negotiation, Weaknesses and Promise of the Montreux Document," *Journal of Conflict and Security Law* 13, no. 3 (2008): 401-428.

⁶³⁰ Geneva Centre for the Democratic Control of Armed Forces (DCAF), *Code of Conduct for Private Military and Security Companies (PMSCs)*, November 2010.

workings of the private military industry, how these companies function in a neomedieval environment, and how they can alter international outcomes.

Chapter 5

Liberia: a Neomedieval Tale

He killed my Ma, he killed my Pa, I'll vote for him!

—Charles Taylor's presidential campaign slogan⁶³¹

Monrovia is the capital of Liberia, a small West African country that, by the summer of 2003, had suffered fourteen years of civil war epitomised by torture, rape, child soldiers, blood diamonds and fratricide. The city is situated on the Atlantic Ocean and inhabits a peninsula parallel to the mainland with

⁶³¹ Incidentally, he won. An alternate slogan was 'he killed your ma, he killed your pa; vote for him or he'll kill you too!' He meant it and took the 1997 Liberian presidential election by a landslide 75.3 per cent of the vote. International observers declared the elections to be fair, and UN Security Council President Peter Osvald read a statement noting the joint certification statement by the secretary-general along with the chairman of the Economic Community Of West African States (ECOWAS), which found the elections to be 'free, fair and credible' and reflecting the will of Liberian voters. See: UN, "Security Council Welcomes Successful Presidential, Legislative Elections in Liberia," *press release SC/6402*, July 30, 1997. However, some human rights groups and scholars observe that the elections took place in a general climate of intimidation, hence Taylor's 'victory'. See: Binaifer Nowrojee, "Liberia: Emerging From the Destruction: Human Rights Challenges Facing the New Liberian Government," *Human Rights Watch/Africa* (Washington, DC: Human Rights Watch, 1997); Terrence Lyons, "Liberia's Path From Anarchy to Elections," *Current History* 97, no. 619 (1998): 229-233.

only three entrances: one road and two bridges. On 18 July 2003, the city was sealed off by rebels, from the east by Liberians United for Reconciliation and Democracy (LURD) and from the south by the Movement for Democracy in Liberia (MODEL). Ferociously defending the gateways to Monrovia were remnants of the Armed Forces of Liberia (AFL) still loyal to President Charles Taylor, a notorious warlord accused of war crimes and crimes against humanity.⁶³² At the time, Liberia was more of a kingdom than a state. As one Liberian put it, 'Ghankay [Charles Taylor] is our law. He understands that the man with the gun is a strongman'.⁶³³

Taylor has been accused of murdering and mutilating civilians during his reign from 1989 to 2003, illegally trafficking diamonds and timber to enrich himself at the expense of the state, abducting women and girls as sex slaves and forcing children and adults into pressed labour and fighting during the war in Sierra Leone.⁶³⁴ His militias chased down civilians and asked them if they wanted a long-sleeve or a short-sleeve shirt. For people who said long sleeves, the fighters hacked off their hands at the wrist with a machete. People who said short sleeves had their arms hacked off closer to the shoulder. To this day, people missing one, two and even four limbs lie on the streets on Monrovia

⁶³² Many members of the AFL remained in their barracks and did not partake in the fighting. Not everyone in the AFL supported Taylor.

⁶³³ Quoted in: William Reno, "Reinvention of an African Patrimonial State: Charles Taylor's Liberia," *Third World Quarterly* 16, no. 1 (1995): 109.

⁶³⁴ *Sixth Annual Report of the President of the Special Court for Sierra Leone* (Freetown, Sierra Leone: Special Court For Sierra Leone, 2009).

begging for money.⁶³⁵ Taylor also supported rebel groups in the adjacent countries of Guinea and Côte d'Ivoire to agitate ongoing conflicts there and destabilise his neighbours. In July 2003 those same countries returned the favour, helping unseat Taylor by aiding LURD and MODEL. In late 2002, *The Economist* predicted that Liberia would be 'the world's worst place to live' that year.⁶³⁶ They were right.

The fighting was fierce and all sides committed atrocities. Child soldiers were commonplace, the line between combatants and civilians blurred and the laws of war were utterly ignored. The battles over the bridges into Monrovia were so intense that the road was paved in blood and brass shells; lampposts, road signs and nearby buildings were riddled with bullet holes. As John W. Blaney, the US ambassador to Liberia, later recalled in an interview: 'It was really like a 14th-century siege. The two rebel armies had surrounded Monrovia with the government's troops inside of Monrovia and the two rebel armies pressing hard outside'.⁶³⁷ Frustrated by the AFL's resistance, rebels started indiscriminately shelling the overcrowded inner city with mortars, killing more than 1,000 civilians.⁶³⁸ Liberians described the situation as 'World

⁶³⁵ Interview with Ex-Combatant Monrovia, Liberia 12 May 2004. Other accounts of gruesome acts from eyewitnesses include: human heads on chairs and tables in the middle of the road as a warning to others; stringing human entrails across concertina wire to make an ad hoc road block at which cars would be stopped and robbed, and perhaps passengers raped or killed; combatants would capture a pregnant woman, bet on the gender of her baby and then find out.

⁶³⁶ "The World's Worst: Liberia," *The Economist* (2002).

⁶³⁷ John Blaney, interview by Ky Luu, *Disaster Resilience Leadership Academy*, YouTube Upload, September 11, 2009, <http://www.youtube.com/watch?v=cdGGs6QGACU>.

⁶³⁸ "U.S. Military Experts Confront Carnage in Liberia," *Associated Press*, July 9, 2003.

War III' and began piling their dead at the gates of the US Embassy in a macabre plea for help.⁶³⁹

Monrovia was already a humanitarian disaster, as hundreds of thousands of internally displaced Liberians had fled the fighting in the hinterlands for the capital, which could not accommodate them all. With no electricity, water, sewage, police, food or any other accoutrement of modern life, the city became a massive slum of tin shacks, garbage, human waste, disease and lawlessness. Liberia was once the jewel of West Africa and a popular international vacation destination: Pam Am airlines had flown directly from New York City to Monrovia three times a week.⁶⁴⁰ Now the country was apocalyptic.

International pressure mounted as the siege went on, stretching from days into weeks. US President George W. Bush twice demanded on international television that Taylor 'leave Liberia' and stationed 2,300 marines in three US Navy ships off the country's shore.⁶⁴¹ Nigeria offered Taylor asylum if he left, shielding him from the machinations of international law.⁶⁴² The UN Security Council authorised a multinational peacekeeping force in

⁶³⁹ Ibid.

⁶⁴⁰ According to a 1963 Pan American (Pan Am) airlines brochure describing Liberia, 'tourists are welcome here and are treated with great friendliness and courtesy. The coastal area on the Atlantic Ocean has beautiful beaches and good fishing'. See: Matt Jones, "Moved2Monrovia," accessed April 14, 2011, http://3.bp.blogspot.com/_nAWhnWKWr-w/THZicXetaMI/AAAAAAAAAoc/qqZrx-kxqY0/s1600/PANAM+LIBERIA.jpg.

⁶⁴¹ Scott Lindlaw, "Bush Approves Small Peacekeeping Contingent for Liberia," *Associated Press*, July 6, 2003.

⁶⁴² "Transcript: U.S. Debating Sending Troops to Help Liberian Civil War," CNN, July 2, 2003. However, in March 2006 Nigeria handed Taylor over to Liberian authorities for trial, who in turn handed him over to the Special Court for Sierra Leone. This court was set up jointly by the government of Sierra Leone and the United Nations to try those most responsible for serious violations of international humanitarian law during the civil war there (1991–2002). See: Stephen Faris, "War Returns to Monrovia," *Time Magazine*, July 20, 2003.; *Sixth Annual Report of the President of the Special Court for Sierra Leone*.

Liberia, citing its deep concern over ‘the humanitarian situation, including the tragic loss of countless innocent lives ... and its destabilising effect on the region’.⁶⁴³ Meanwhile, the Economic Community of West African States (ECOWAS), a regional international organisation, hastily assembled a force to relieve the city.

With global pressure intensifying and rebels at the gates, Taylor finally yielded on 11 August and fled to Nigeria. He blamed Liberia’s problems on foreign meddling and cast himself the martyr: ‘Because Jesus died, we are saved today. I want to be the sacrificial lamb. I am the whipping boy. It’s easy to say “It’s because of Taylor”. After today, there will be no more Taylor to blame’.⁶⁴⁴ A few days later the rebels lifted their siege, and 1,000 ECOWAS peacekeepers and 200 US marines entered the city to provide emergency humanitarian assistance and prevent a relapse of violence. ‘God bless you, Oga’, women cried to convoys of Nigerians, using the Nigerian Yoruba word for ‘boss’. ‘God bless you, marine’, they sang to other vehicles filled with American troops.⁶⁴⁵ On 18 August, the two rebel groups and what was left of Taylor’s government signed a comprehensive peace agreement (CPA) at Accra, Ghana, ending Liberia’s bloody civil war.⁶⁴⁶

⁶⁴³ U.N. Security Council, Resolution 1497, S/RES/1497, “Adopted by the Security Council at Its 4803rd Meeting, on 1 August 2003,” August 1, 2003, <http://unmil.org/documents/resolutions/reso1497.pdf>.

⁶⁴⁴ Stephan Faris, “Charles Taylor Leaves Liberia,” *Time Magazine*, August 11, 2003.

⁶⁴⁵ Glenn Mckenzie, “Rebels Lift Siege of Liberia’s Starving Capital, U.S. Marines Land,” *The Associated Press*, August 14, 2003; “Rebels Lift Siege of Starving Monrovia,” RedOrbit.com, August 14, 2003, accessed April 11, 2011, http://www.redorbit.com/news/general/14811/rebels_lift_siege_of_starving_monrovia/.

⁶⁴⁶ “Comprehensive Peace Agreement Between the Government of Liberia and the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and

However, a tragic legacy remained: After 150 years of troubled history, fourteen years of civil war and horrific abuses of power, Liberia was shattered. Its infrastructure was beyond destroyed, any semblance of civil governance had been long since abandoned and much of its population was either displaced or dead. To this day Liberia is plagued by intense hunger and poverty, no central running water or sewage, no telephone landlines and no electrical grid. Small generators power most of the country.

The human cost is even greater. As a US Agency for International Development (USAID) report describes, in a country of only three million,

over 250,000 people, most of them civilian non-combatants, have lost their lives in the civil war. More than 1.3 million have been displaced, including hundreds of thousands who fled the country. Abductions, torture, rape and other human rights abuses have taken place on a massive scale. It is estimated that at least one in ten children may have been recruited into militias at one time or another. A similar percentage has been traumatised by seeing their families and friends murdered and raped.⁶⁴⁷

Almost everyone in Liberia was affected by the war. Post-conflict polls show that 96 per cent of respondents had some direct experience of the conflict and, of these, an astonishing 90 per cent were at one point or another displaced from their homes.⁶⁴⁸

Political Parties,” August 18, 2003, accessed April 11, 2011, http://www.usip.org/files/file/resources/collections/peace_agreements/liberia_08182003.pdf.

⁶⁴⁷ “Overview of Activities in Liberia,” United States Agency for International Development, May 4, 2004.

⁶⁴⁸ International Monetary Fund, “Liberia: Interim Poverty Reduction Strategy Paper,” (Washington, DC: IMF, 2007), x; IDP Advisory Team Policy Development and Evaluation Service, “Real-Time Evaluation of UNHCR’s IDP Operation in Liberia,” (Geneva: United Nations High Commissioner for Refugees (UNHCR), 2007), 7; UNHCR, “Liberia: Regional Operations Profile - West Africa,” <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e484936#>; ICRC, “Liberia: Opinion Survey and

Optic into a New Order

Liberia's tragic history and hopeful recovery shed light on the mechanics of the emerging neomedieval world order. To be clear, neomedievalism is not necessarily a negative phenomenon nor is contemporary Africa analogous to Medieval Europe. In fact, Africa is home to five of the world's fastest growing economies.⁶⁴⁹ However, extreme examples are often the most illustrative, and Liberia's violent fall and fragile resurgence demonstrate all five characteristics of neomedievalism: the disintegration of states, the regional integration of states, transnational organisations, the technological unification of the world, and the restoration of private international violence.

Liberia is a stark example of state disintegration; as Africa expert Peter Pham observes, 'tragically, the recent history of Liberia has been a case study *par excellence* of a failed state'.⁶⁵⁰ In 1975 Liberia's per capita GDP was greater than those of Egypt, Indonesia or the Philippines and double that of India.⁶⁵¹ By 2003 it was one of the poorest countries in the world and has remained at the bottom of most international health and development indexes.⁶⁵² From

in-Depth Research," (Geneva: International Committee of Red Cross, 2009), 1. For more on the significance of data, especially in post-conflict Liberia, see: Josef Teboho Ansong, "The Technics of Politics: Information Technology in International Relations" (doctoral thesis, University of Cambridge, 2011), 205-225.

⁶⁴⁹ The five fastest growing African economies by real GDP in early 2011 were also ranked among the fastest in the world: the DRC (10th in world), Zimbabwe (11th), Botswana (13th), Nigeria (16th) and Ethiopia (20th). Source: International Monetary Fund, *World Economic Outlook Database* (Washington, DC: IMF, 2011).

⁶⁵⁰ J. Peter Pham, *Liberia: Portrait of a Failed State* (Georgia: Reed Press, 2004), 191.

⁶⁵¹ In 1975 the per capita GDP for Liberia's was \$386.17, for Egypt \$291.08, Indonesia \$242.46, Philippines: \$354.47 and India \$156.33. Source: "Indicators: Data," World Bank, 2010, <http://data.worldbank.org/indicator>.

⁶⁵² In 2008 the UNDP's Human Development Index ranked Liberia 176 of 179 states and did not rank Liberia at all in 2003 for lack of data. A Liberian's life expectancy at birth was 56 years in 2003 and 59 years in 2010. In 2010, Liberia's adult literacy rate remains at 46 per cent, one of the lowest in the world,

2000 to 2008, 83 per cent of the population subsisted on less than \$1.25 per day, and in 2008, Liberia had the second-lowest gross national income in the world.⁶⁵³ By the time Taylor fled the country, Liberia's economic collapse was complete and replaced by an illicit economy dominated by warlords trafficking diamonds, timber and other natural resources for personal gain at the country's expense.⁶⁵⁴ Liberia today depends totally on global largesse for its survival: foreign aid accounts for a stunning 771 per cent of government expenditure—the highest percentage of foreign aid to government spending in the world, with Guinea-Bissau a distant second at 221 per cent.⁶⁵⁵ After the war foreign aid jumped from \$106 million in 2004 to \$1.25 billion in 2008. Liberia's GDP that year was only \$843 million.⁶⁵⁶ Not surprisingly, corruption is a big problem and is so institutionalised that Liberians even have a verb for it—*chopping*—as

and the combined gross enrolment in school was only 57.6 per cent. The unemployment rate stood at 85 per cent. The 2010 Gallup Global Wellbeing Survey puts the country at 141st out of 155 (Gallup, "Global Wellbeing Surveys Find Nations Worlds Apart," Gallup.com, <http://www.gallup.com/poll/126977/global-wellbeing-surveys-find-nations-worlds-apart.aspx>). The 2010 Global Hunger Index ranks Liberia as 69th out of 84, which makes it the 15th most food insecure country in the world (Klaus von Grebmer et al., "Global Hunger Index, the Challenge of Hunger: Focus on the Crisis of Child Undernutrition," (Bonn, Washington D.C., Dublin: Welthungerhilfe, International Food Policy Research Institute, Concern Worldwide, 2010), 17.). The UN and World Bank continue to place Liberia in the lowest category of state strength. Other failed-state indices have ranked Liberia in various versions of 'the worst of the worst' category from 2008 to 2010 (no data were available on Liberia during or immediately after the war): the Fund for Peace's Failed State Index; Transparency International's Corruption Perceptions Index; Brookings's Index of State Weakness in the Developing World; the World Bank's Country Policy and Institutional Assessment (CPIA) and International Development Association (IDA) Resource Allocation Index; and Freedom House's World's Most Repressive Societies list. See: UNDP, *National Human Development Report 2006: Liberia* (New York City: United Nations, 2006); James Heintz, "A Rapid Impact Assessment of the Global Economic Crisis on Liberia," *Political Economy Research Institute* (December 12, 2009); Soniya Carvalho, *Engaging With Fragile States* (Washington, DC: World Bank, 2006), 5; "Indicators: Data," World Bank.

⁶⁵³ "Indicators: Data," World Bank.

⁶⁵⁴ Pham, *Liberia: Portrait of a Failed State*, 191-192.

⁶⁵⁵ Foreign aid here refers to net official development assistance (ODA): "Net Official Development Assistance and Official Aid Received (Current US\$)," World Bank, accessed April 16, 2011, http://data.worldbank.org/indicator/DY.ODA.ALL.D.CD?cid=GPD_54; Calculation of percentage of foreign aid to government spending: "Percentage of Foreign Aid to Government Spending," *Financial Times*, <http://media.ft.com/cms/7398f192-6d99-11df-b5c9-00144feabdc0.swf> (accessed April 16, 2011).

⁶⁵⁶ "Indicators: Data," World Bank.

ministers and executives are expected to chop money off budgets to feed their families and patronise their tribes.⁶⁵⁷

However, Liberia's economic woes are only a fragment of its statehood challenges. There are no functioning public utilities and most Liberians have no access to electricity, water, sanitation facilities or health care. Basic infrastructure such as roads and bridges—which aid workers, entrepreneurs, peacekeepers and Liberians themselves all need, especially in rural areas—are in dire need of repairs. Fourteen years of civil war has left a generation of Liberians without a formal education and with a brain drain of those that do. Liberia has no effectively functioning judicial system, leaving it with a culture of impunity: most courts have been destroyed and trial by ordeal is not unheard of outside the capital.

Beginning with the first coup d'état in 1980, national authority—if it even existed—rarely extended beyond Monrovia. Institutions were anaemic and those who possessed the means of violence served warlords such as Taylor rather than the state. Like most post-Cold War armed conflicts, the war in Liberia was not Westphalian or interstate, but neomedieval or intrastate in nature: it was fought between warlords rather than states. Consistent with Rupert Smith's 'war amongst the people', civilians were both the principal actors and targets of armed conflict, displacing nearly half the population and destabilising the region. By the war's end, the United Nations registered

⁶⁵⁷ Interview with member, Liberian Ministry of Defence, Monrovia, Liberia April 23, 2005.

314,000 internally displaced persons (IDPs) and the challenge of resettlement continues as returnees struggle to rebuild their lives and communities.⁶⁵⁸

In another sign of the move toward neomedievalism, states did not manage the situation in Liberia; international organisations did. Liberia's rescuers were not other states, as the Westphalian order demands, but the United Nations, ECOWAS and others. Notwithstanding Blaney's efforts to secure a battlefield ceasefire, the role of the United States was minimal. Its three warships and 2,300 Marines sat off the coast of Liberia and did nothing to stop the fighting; a mere 200 troops intervened only after Taylor departed. No other state military came to Liberia's aid. By contrast, the ECOWAS peacekeeping mission provided security and humanitarian assistance in the immediate aftermath of the war and was replaced by a larger UN force a few weeks later. On 19 September 2003, the UN Security Council established a Chapter VII peacekeeping mission called the United Nations Mission in Liberia (UNMIL), authorised to use 'all necessary means' to support the implementation of the ceasefire agreement and the peace process. Led by Ambassador Jacques Paul Klein, UNMIL was the largest peacekeeping mission in the world at the time, with an authorised strength of 15,000 blue-helmet peacekeepers.⁶⁵⁹ For the next several years, UNMIL essentially administered the country. Taylor was eventually handed over to a joint UN and Sierra Leone

⁶⁵⁸ "Liberia: Development Challenges Top Agenda as the Nation Recovers From Years of Civil Strife," United Nations, 2006, accessed April 23, 2011, <http://www.un.org/events/tenstories/06/story.asp?storyID=2100#>.

⁶⁵⁹ "UNMIL Background," United Nations, accessed April 16, 2011, <http://www.un.org/en/peacekeeping/missions/unmil/background.shtml>.

court of international law to be tried for war crimes and human rights violations. At the time of publication, he remains at The Hague and awaits a verdict.

As international organisations rescued Liberia, transnational actors keep it alive on life support. Hundreds of NGOs, ranging from large international actors such as Médecins Sans Frontières to small indigenous organisations, provide the bulk of services normally associated with good government: healthcare, food, shelter, education, security, water, sanitation, sewage, infrastructure, job creation and general administration. Save the Children, an international NGO, provides free healthcare for 102,399 people, has vaccinated 40,670 children against deadly diseases, has sheltered 15,182 children from violence and abuse and has helped 56,094 children receive an education.⁶⁶⁰ Overwhelmed with NGO support, the government issued a national policy to help coordinate their efforts, and by early 2007 more than 400 NGOs registered with the Ministry of Planning and Economic Affairs.⁶⁶¹ As NGOs provide substantially more public services than Liberia's own government, many on the ground at the time quipped it was a 'republic of NGOs'.

MNCs also contributed to Liberia's recovery. After the war ended, Firestone Natural Rubber Company returned to Liberia, where it had operated

⁶⁶⁰ "Home Page," Save the Children Liberia, accessed April 17, 2011, <http://www.savethechildren.org.uk/en/liberia.htm>.

⁶⁶¹ "National Policy on Non-Governmental Organisations in Liberia," Republic of Liberia, <http://www.emansion.gov.lr/doc/NGOPolicguidelines.pdf>. On some of the pitfall regarding too many NGOs in Liberia, see: Veronika Fuest, "Contested Inclusions: Pitfalls of NGO Peace-Building Activities in Liberia," *Africa Spectrum* 45, no. 2 (2010): 3-33.

from 1926 until 1989. According to the company, since 2005 it has invested more than \$101.75 million to improve conditions in Liberia and ‘intends to invest tens of millions more’. As of 2011, the company had built or renovated 2,200 homes, with an additional 321 under construction. By then, the MNC was operating twenty-six schools teaching nearly 16,000 children and was running nine health care facilities, including a hospital. It distributed more than 2.21 million free rubber tree saplings to Liberian farmers to help rebuild the industry and ensure a future for thousands of families in the country.⁶⁶² In the long run, Firestone’s actions could prove to be trend-setting: in addition to rubber, Liberia holds promise for MNCs investing in mineral ore, timber, diamonds, and agricultural commodities. Long-time Africa observer Greg Mills notes low-income countries can prosper when their leaders promote private sector-led development in a ‘trade not aid’ policy. After considering a similar agricultural program in Mozambique, Mills concludes that ‘commercial projects did what aid could never achieve. By placing extension services on a commercial footing, it granted a different logic to sustainability: one based not on pity, but on performance’.⁶⁶³

Underlying and enabling the efforts of both NGOs and MNCs is the technological unification of the world, which was involved even in catalysing the international response. Globalised media streamed arresting images of the war’s carnage directly into living rooms across the world twenty-four hours a

⁶⁶² “Liberia Statistics,” Firestone, <http://www.firestonenaturalrubber.com/documents/StatSheetNarrative.pdf>.

⁶⁶³ Greg Mills, *Why Africa is Poor* (New York: Penguin Global, 2010), 372.

day, inciting international outrage and demand for humanitarian intervention. This outcry was answered when President Bush declared that 'Charles Taylor needs to step down' on CNN and Kofi Annan, the UN secretary-general, said Taylor's departure 'mark[s] the beginning of the end of the long nightmare of the Liberian people'.⁶⁶⁴ This sequence of globalised media igniting international uproar and prompting world leaders to take action is a self-feeding cycle sometimes referred to as the 'CNN effect'.⁶⁶⁵ Polling data show that American support for a US peacekeeping mission in Liberia initially increased during media coverage of the war but remained mixed until President Bush announced on CNN that US marines would be stationed off the coast of Liberia. This galvanised popular support for the policy.⁶⁶⁶ Without globalisation the world may have ignored Liberia's plight.

⁶⁶⁴ "Transcript: U.S. Debating Sending Troops to Help Liberian Civil War."; UNIS, "Secretary-General Welcomes Resignation of President Charles Taylor; Hopes Event Marks Beginning of End for Liberia's 'Long Nightmare'." *UN press release SG/SM/8818 AFR/687*, August 12, 2003.

⁶⁶⁵ The concept of the CNN effect holds that globalised media have the power to shape popular opinion in representative governments, which in turn influence a state's foreign policy, such as whether to stage a humanitarian intervention. It is named after the popular 24-hour international television news channel known as Cable News Network, or CNN. For more information on the CNN effect, see: Steven Livingston, "Clarifying the CNN Effect: An Examination of Media Effects According to Type of Military Intervention," Research Paper R-18 (Cambridge, MA: The Joan Shorenstein Center on Press and Politics, 1997); Eytan Gilboa, "The CNN Effect: The Search for a Communication Theory of International Relations," *Political Communication* 22, no. 1 (2005): 27-44.; Hamid Mowlana, *Global Information and World Communication: New Frontiers in International Relations* (London: Sage Publications Ltd, 1997).; Michael C. Williams, "Words, Images, Enemies: Securitization and International Politics," *International Studies Quarterly* 47, no. 4 (2003): 511-531.; Piers Robinson, *The CNN Effect: The Myth of News, Foreign Policy and Intervention* (London: Routledge, 2002).

⁶⁶⁶ American popular support for a humanitarian intervention in Liberia was mixed before President Bush announced he would station troops off Liberia's shore on July 25, 2003. A 16-17 July poll by Time/CNN/Harris Interactive asked half the respondents whether they would favour or oppose 'sending about 100 troops into Liberia for a few months or less' and asked the other half if they favoured or opposed 'sending about 1,000 troops into Liberia for a year or more'. Half (50 per cent) opposed the lesser troop number being sent for the shorter period of time. Opposition was even higher (57 per cent) to sending more troops for the longer time period. Support for the operation was significantly higher after Bush announced his decision to send troops to the region. A July 2003 CNN/USA Today/Gallup poll that began the day Bush announced that marines were being sent to the region asked, 'Would you favour or oppose the presence of US ground troops, along with troops from other countries in an international peacekeeping force in Liberia?' 63 per cent said they would favour that, while 30 per cent

Globalisation also facilitated Liberia's recovery. Once peacekeepers were on the ground, information technology and the globalised supply chain nourished the large peacekeeping mission. Satellite telephones, mobile telephone networks and the internet enabled instant coordination between aid workers in the field and headquarters in New York City, London, Paris, Geneva, Washington, DC and elsewhere. The global supply chain made it possible to deliver humanitarian aid from around the world to Liberia in a timely manner. Such aid has accounted for an average of 50 per cent of Liberia's total aid, one of the highest shares in all recipient countries in 2004 and only behind Iraq, Sudan and Somalia. In the months that followed Taylor's departure, \$109 million in humanitarian aid was flown, floated or driven into Liberia; that number jumped to \$177 million in 2004.⁶⁶⁷ Globalisation also spurred the Liberian diaspora community's return and reinvestment in the country: remittances rose from \$0 during the war to \$1,008,166 in 2009.⁶⁶⁸

opposed it. In a Gallup poll, 57 per cent of respondents said they favoured the presence of US ground troops 'along with troops from other countries, in an international peacekeeping force in Liberia'. A slightly smaller majority, 51 per cent, said in the Princeton Survey Research Associations/Newsweek poll conducted the same week that they supported sending US troops to Liberia 'to participate in a peacekeeping operation there'. The lower result in the Princeton survey may be due to the lack of mention of sharing the peacekeeping duty with other nations. Another poll by NBC/Wall Street Journal that began the day after Bush made the announcement showed majority support (58 per cent) for sending US troops to Liberia. A CNN/USA Today/Gallup poll taken a month after Bush's announcement, and after US troops had deployed onto Liberian soil, found 61 per cent in favour of US troops' presence in Liberia for peacekeeping. See: "Humanitarian Military Intervention in Africa," WorldPublicOpinion.org, accessed April 16, 2011, http://www.americans-world.org/digest/regional_issues/africa/africa4.cfm.

⁶⁶⁷ Based on OECD DAC (constant 2008 prices) and UN OCHA FTS data for 2009–10. See: "Liberia Overview," accessed April 16, 2011, <http://www.globalhumanitarianassistance.org/countryprofile/liberia>.

⁶⁶⁸ This is still a far cry from pre-war levels of \$136,200,000 in 1986. "Liberia - Workers' Remittances and Compensation of Employees," World Bank, accessed April 17, 2011, <http://www.indexmundi.com/facts/liberia/workers-remittances-and-compensation-of-employees>.

Lastly, the new private military industry was essential to Liberia's recovery and future. Liberia's stability and success is guaranteed by thousands of UNMIL peacekeepers who enforce the peace deal and rule of law, but serious questions remain regarding the country's future once the United Nations leaves. Liberia's prospects are uncertain given the government's limited capacity, the dangerous geopolitical neighbourhood it inhabits and the many spoilers waiting in the wings. To survive as a state, a government needs a monopoly of force to uphold its rule of law and fend off armed threats to its existence. In Liberia, however, the United States outsourced this critical task to a PMC called DynCorp International—the first time since the era of the British East India Company that a sovereign nation hired a private company to raise another sovereign nation's armed forces.

DynCorp International is an exceptional representative of the new private military industry. Founded in 1946 as an aviation support firm, the company evolved into a MNC that is traded on the NASDAQ stock exchange (ticker symbol: DCP), is bought and sold by large MNCs and small New York private equity firms alike and has Wall Street magnates and retired US military generals on its board of directors.⁶⁶⁹ It describes itself as a 'leading provider of specialised, mission-critical professional and support services outsourced by

⁶⁶⁹ Examples of past and present owners are L-3 Communications, Veritas Capital and Cerberus Capital Management.

the US military, non-military US governmental agencies and foreign governments'.⁶⁷⁰

DynCorp International is also massive. With \$3.6 billion in revenue for 2010 and tens of thousands of employees working on every continent save Antarctica, DynCorp International dwarfs its nearest PMC competitors, Blackwater and Triple Canopy.⁶⁷¹ The company is so large that its contracts comfortably span and even dominate all three categories of the private military industry—private military company, private security company and general contractor—with the bulk of its work in the non-violent last category. The United States is DynCorp's best client and accounts for 98 per cent of its earnings. The firm claims it has 23,000 employees, but that does not count individuals on annual contracts, which comprise the majority of personnel.⁶⁷² According to *Forbes*, a business magazine, the company has some 240,000 contracted employees in Iraq and Afghanistan alone, outnumbering the troops they serve, and has collected approximately \$100 billion from the United States government on the wars.⁶⁷³ In Liberia, the United States contracted DynCorp to demobilise the AFL without causing a coup d'état and raise a completely new military and Ministry of Defence (MOD), which it did.

⁶⁷⁰ DynCorp International, "Form 10-K for DynCorp International Inc," Annual Report for the period from April 1, 2010 to December 31, 2010.

⁶⁷¹ Ibid.

⁶⁷² Ibid, 14.

⁶⁷³ Nathan Vardi, "Dyncorp Owner Cashes Out of Wartime Investment," April 12, 2010, accessed April 18, 2011, <http://blogs.forbes.com/streettalk/2010/04/12/dyncorp-owner-cashes-out-of-wartime-investment/>.

DynCorp in Liberia is an ideal case to examine the inner workings of the modern private military industry, how it alters global outcomes, and how it contributes to the emerging neomedieval order. First, as is already mentioned, Liberia is a microcosm of neomedievalism, and DynCorp an excellent representative of the private military industry; its actions there may portend how the industry will behave in a larger neomedieval setting. Second, unlike in Iraq or Afghanistan, DynCorp's operations in Liberia span all three categories of the private military industry, allowing an examination of how these firms operate at the strategic as well as the tactical level. If a company can raise an army in a challenging place like Liberia, then it can undoubtedly deploy that army too, as Wallenstein did during the Thirty Years' War.⁶⁷⁴ Force generation and utilisation will become core services in the future should the private military industry expand into a truly free market for force, and the case of DynCorp in Liberia illustrates how a PMC might accomplish this.

Third and more generally, DynCorp International's involvement in Liberia is more telling of the industry's future than its experiences in Iraq and Afghanistan. The effort in Liberia was embedded within a neomedieval campaign comprised of many actors—the United Nations, ECOWAS, NGOs, MNCs—rather than a massive bilateral effort commanded by a single country. Also, Liberia was also a relatively inexpensive program compared to the profligate sums of money the United States paid PMCs in Iraq and

⁶⁷⁴ During the Thirty Years' War, Count Albrecht von Wallenstein raised an army for the Holy Roman Emperor Ferdinand II and eventually became the supreme commander of the Habsburg monarchy's armies and the richest man in Europe.

Afghanistan, and the US government has grown increasingly wary of granting multimillion dollar contracts to military companies with limited oversight mechanisms, as evidenced by the creation of SIGIR, SIGAR and the Commission on Wartime Contracting.⁶⁷⁵ Future contracts, whether issued by the United States or others, will probably approach the modest budget range of Liberia rather than the exorbitant sums of Iraq and Afghanistan.⁶⁷⁶

Fourth, Africa is the best venue to examine the future of the private military industry. While DynCorp's role in Liberia does not represent the muscular offensive operations of Hawkwood's White Company or Executive Outcomes, it does suggest the next step in the maturation of the modern market for force. Additionally it shows what a modern PMC can do—raise an army relatively independently—and suggests that it could likely deploy that army too, since the skillsets are closely entwined.⁶⁷⁷ Moreover, with the bubbles bursting on the markets in Iraq and Afghanistan, PMCs will seek new opportunities to survive and expand, and most of the world's armed conflicts are in Africa. Over the past few years, DynCorp, Triple Canopy, ArmorGroup

⁶⁷⁵ SIGIR, SIGAR and the Commission on Wartime Contracting are examples of special oversight offices and commissions established by the United States government that deal with contractor fraud, waste and abuse in conflict zones.

⁶⁷⁶ The United States has invested substantially more resources into Afghanistan and Iraq than Liberia. According to the Congressional Research Service the cost for training the AFL from 2004 to 2009 was about \$240.56 million. See: Nicholas Cook, *Liberia's Post-War Development: Key Issues and US Assistance* (Washington, DC: Congressional Research Service, 2010), 22. By contrast, in 2010 the US spent about \$6.7 billion in Afghanistan and \$6.2 billion in Iraq per month. See: Amy Belasco, *Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11* (DIANE Publishing, 2009), summary. Assuming on average 730 hours in a month, that equals approximately \$1.8 million spent every hour in Afghanistan and Iraq. Clearly, this rudimentary comparison does not account for the myriad other costs associated with operating in Afghanistan and Iraq (some of which stem from poor DDR and SSR), but the juxtaposition highlights the vast discrepancy in spending between US efforts in Iraq and Afghanistan compared to Liberia.

⁶⁷⁷ This thesis does not suggest or imply that DynCorp International desired to raise and/or deploy its own army in Africa. It merely suggests that the possibility of such an action is within the firm's grasp.

International, Blackwater, Erinys International, AECOM and others have established offices in Africa, and Erik Prince's post-Blackwater career is allegedly as a power broker for firms seeking business opportunities on the continent.⁶⁷⁸ As in the market for force in the Middle Ages, today supply of armed force seeks—and potentially creates—demand.

Lastly, in the spirit of transparency, the author was a program manager for DynCorp International in Africa and played a primary role in the design and implementation of the company's Liberia program from its inception in 2004 until the end of 2006. The private military industry is notoriously opaque, and academics, journalists and others are reflexively denied access to data.⁶⁷⁹ This lack of information has led to serious misunderstandings regarding the private military industry and a sizable gap in the literature on the restoration of private international violence compared to the other four components of neomedievalism. Only a former industry insider who is not beholden to the industry's interests can reveal its inner machinations. This thesis aspires to help fill the gaps in the literature and shed light on the secretive topic of modern private armies.

Historical Roots of the Conflict

Like Ethiopia, Liberia never knew colonisation. Freed African-American slaves and abolitionists founded it in 1822 with the help of the United States as

⁶⁷⁸ Mazzetti and Schmitt, "Blackwater Founder Said to Back Mercenaries."

⁶⁷⁹ The author's views are his alone, and do not represent DynCorp International, the United States government, the government of Liberia or any other entity.

an outpost for other freed slaves returning from the Americas. The country's name is derived from the Latin word *liber*, meaning *free*, and its capital Monrovia was named in honour of US president James Monroe, who held office at the country's founding and supported its creation. Liberia's red, white and blue flag is modelled on the US flag and its currency is the Liberian dollar. The country was an eager and willing US ally during World War II and the Cold War.

Growing from an outpost to a commonwealth, Liberia achieved statehood in 1847 with the ratification of a constitution drafted at Harvard University. However, problems loomed. Few of the freed slaves who found new beginnings in Liberia were from that region of Africa, and they proceeded to treat local tribes in ways comparable to their own treatment in the Americas. Soon a rift developed between descendants of the freed slaves, known as Americo-Liberians, and the fourteen or so indigenous tribes. This evolved into a hierarchical caste system with four distinct classes. At the top were the elites: Americo-Liberian officials of mixed black and white ancestry with light skin (also known as mulattos). Second were darker-skinned Americo-Liberians, consisting mostly of labourers and small farmers. Third were the 'recaptives' or 'Congos', African captives on US-bound slave ships who were rescued by the US Navy and brought to Liberia. At the bottom of the hierarchy were the indigenous Liberians.⁶⁸⁰ The first three classes—comprising less than 3 per cent

680 Robin Dunn-Marcos, et al., *The Liberians: An Introduction to Their History and Culture* (Washington, DC: Center for Applied Linguistics, 2005), 9.

of the population—retained absolute political control, enjoyed a monopoly of social privilege and benefitted substantially from the unequal distribution of power and wealth within the country. This tyranny of the elites went unabated until 1980, when a coup d'état irrevocably altered the national landscape.

End of Americo-Liberian Rule

The 1970s marked the beginning of the end for the elites' 125-year rule. In 1971, William Tubman, Liberia's president for twenty-seven years, died while in office. His Open Door economic policy had proven a boon for Liberia, giving it the largest mercantile fleet and rubber industry in the world. The country also became the third-largest exporter of iron ore globally and received over \$1 billion in foreign investment. Few, however, enjoyed the benefits, as the prospering Americo-Liberians tended not to share the wealth. This further widened the rift between the elites and the rest of the population, setting the conditions for revolt.

Tubman's vice president and successor, William Tolbert, attempted to ward off the crash course the country was on, but his own Americo-Liberian roots combined with the ensconced system of political and social elitism hindered his efforts. Adversaries almost immediately accused him of nepotism and cronyism. However, he also began to liberalise Liberia by introducing reforms to allow more indigenous Liberians in government and creating the first opposition party in the nation's history, the Progressive Alliance of Liberia, to run against the Americo-Liberians' old True Whig Party. Though

re-elected in 1975, his government was criticised sharply for failing to address the deep economic disparities between the Americo-Liberians and the rest of the population. Social unrest began to swell as the majority felt change was occurring too slowly while power-wielding Americo-Liberians felt it was too rapid.

Tensions came to a head in 1979. In April of that year, Tolbert's administration proposed to raise the price of government-subsidised rice by 50 per cent, claiming it would promote more local farming, slow the rate of urban migration and reduce dependence on imported rice. Opposition leaders claimed the measure was meant only to benefit the Tolbert family, which controlled the rice monopoly in Liberia. Hundreds of people marched through Monrovia, protesting the sharp rise in the price of rice. Tolbert ordered troops to fire on the demonstrators, killing some seventy people. So-called rice riots soon spread throughout Liberia and government attempts to quash them by arresting the opposition leaders failed. Tolbert's credibility was dealt a mortal blow and the situation within Liberia continued to decay.

On 12 April 1980, AFL Master Sergeant Samuel Doe, an ethnic Krahn, led a coup d'état, ending the 133-year monopoly of power that the Americo-Liberians' True Whig Party had enjoyed. The coup gained immediate popular acceptance and Doe adopted the revolutionary slogan that 'in the cause of the people, the struggle continues'. Doe personally disembowelled Tolbert in his bed and then ordered the public execution of thirteen top-ranking ministers

and members of the Tolbert family. They were tied to poles on South Beach in Monrovia and shot to death. Many ranking government ministers who survived were tried, tortured and paraded naked through downtown Monrovia. African countries, allies and trading partners widely condemned the coup; a flight of capital and the elites soon ensued, including future president Ellen Johnson-Sirleaf.

1980–89: The Reign of Samuel Doe

Following the coup, Doe suspended the constitution and established the People's Redemption Council (PRC) with full powers, consisting of seventeen enlisted men headed by Doe. The PRC imposed a price freeze on all commodities, including imported foods, and doubled the salaries of civil servants and military personnel. Doe lacked formal education and by many accounts he was illiterate when he assumed the presidency. After only one year, he executed five PRC members, including his vice head of state and coup comrade Thomas Weh-Syen, claiming they had plotted against him. As he grew increasingly paranoid regarding threats to his leadership, he placed members of his own Krahn ethnic group in key positions. Soon the Krahn dominated the government, and as Africa expert Peter Pham notes, 'the new regime turned increasingly brutal and proved even less popular than its predecessors'.⁶⁸¹ Doe's inner circle became as disillusioned with the autocratic regime as the general population did. In November 1983, three prominent

⁶⁸¹ Pham, *Liberia: Portrait of a Failed State*, 7.

members of the PRC left Liberia: Thomas Quiwonkpa, who was the AFL's commanding general; Prince Yormie Johnson, Quiwonkpa's aide; and Charles Taylor, the head of the General Service Agency. All would eventually challenge Doe.

Doe further solidified control by holding elections in 1985, which were characterised by widespread fraud. Before the election, more than fifty of Doe's opponents were murdered and most of the elected opposition candidates refused to take their seats. Liberia's political situation continued to erode with increased human rights abuses, corruption and ethnic tensions. On 12 November 1985, Quiwonkpa staged a coup with an estimated 500 to 600 people from neighbouring Sierra Leone; the AFL killed them all and Quiwonkpa's body was dragged through Monrovia's streets. The Krahn-dominated AFL then retaliated against the ethnic groups in Quiwonkpa's native Nimba County, causing widespread loss of life within the Gio and Mano communities.

Despite Doe's poor human rights record and dubious democratic credentials, his regime enjoyed considerable US financial and political support. Washington considered Monrovia an important strategic ally during the Cold War, and from 1981 to 1985 the United States gave Liberia \$402 million in aid, more than Liberia had ever received before and more financial aid per capita

than any other sub-Saharan country received during the 1980s.⁶⁸² Doe even met with President Ronald Reagan twice, and some have speculated that the US endorsement of the 1985 election results—despite international and domestic observers’ reports that it was compromised—may have led Doe to declare an unchallenged victory over his closest rival, Jackson F. Doe, whom many believed, and still maintain, was the true winner.⁶⁸³

1989–2003: The Reign of Charles Taylor

On Christmas Eve 1989, Charles Taylor and approximately 100 fighters, some trained in Libya, invaded Liberia from neighbouring Côte d’Ivoire. Named the National Patriotic Front of Liberia (NPFL), this rebel incursion initially enjoyed popular support within Nimba County, which had endured the majority of Samuel Doe’s wrath after the 1985 attempted coup. Within six months, Taylor’s forces reached the outskirts of Monrovia, but were stopped by AFL counter-attacks.

A bloody civil war ensued, claiming hundreds of thousands of lives and displacing a million people in a country of only four million. The human toll of the fourteen-year war (1989–2003) is estimated at 270,000 dead, 320,000 long-term internally displaced people and 75,000 refugees in neighbouring countries. Almost everybody in Liberia was touched by the war: a recent poll shows that 96 per cent of respondents had some direct experience of the

⁶⁸² Stephen Ellis, *The Mask of Anarchy: The Destruction of Liberia and the Religious Roots of an African Civil War* (London: Hurst & Co Ltd, 2001), 63.; Reed Kramer, “Liberia: A Casualty of the Cold War’s End,” *CISIS Africa Notes* (July 1995): 3.

⁶⁸³ Ellis, *The Mask of Anarchy*, 59.

conflict, and of these, a shocking 90 per cent were at one point or another displaced from their homes.⁶⁸⁴ The situation was so dire that ECOWAS, a regional international organisation, intervened in 1990 under the premise of a cease-fire and peace deal, albeit without the NPFL. ECOWAS's peacekeeping force, the Economic Community of West African States Monitoring Group (ECOMOG), prevented the NPFL from entering Monrovia. However, the NPFL also ravaged the Krahn and Mandingo areas of Liberia, with widespread atrocities reported. Although reports vary, Ellen Johnson-Sirleaf was apparently affiliated with Charles Taylor's movement.⁶⁸⁵

In July 1990, the NPLF splintered. Prince Johnson formed the Independent National Patriotic Front of Liberia (INPFL), which captured and killed Doe on 9 September 1990, torturing him on Monrovia's beach. AFL soldiers fled to Sierra Leone and founded the new insurgent United Liberation Movement of Liberia for Democracy (ULIMO). Soon after, an Interim Government of National Unity (IGNU), with Amos C. Sawyer as its president, was formed in Gambia with ECOWAS support. However, Taylor did not recognise the IGNU and the fighting continued. By 1995, Liberia's civil war had grown to involve seven major factions, including the AFL, which acted as

⁶⁸⁴ International Monetary Fund, "Liberia: Interim Poverty Reduction Strategy Paper," (Washington, DC: International Monetary Fund, 2007), x.; IDP Advisory Team Policy Development and Evaluation Service, "Real-Time Evaluation of UNHCR's IDP Operation in Liberia," (Geneva: United Nations High Commissioner for Refugees, 2007), 7.; "Liberia: Regional Operations Profile—West Africa," UNHCR, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e484936#>; ICRC, "Liberia: Opinion Survey and in-Depth Research," (Geneva: International Committee of the Red Cross, 2009), 1.

⁶⁸⁵ In 2009, Liberia's Truth and Reconciliation Commission listed President Ellen Johnson-Sirleaf as one of fifty-two people who should be sanctioned for committing war crimes but then retracted the report just hours before publication on its website. See: Glenna Gordon, "In Liberia, Sirleaf's Past Sullies Her Clean Image," *Time Magazine*, July 3, 2009; Kate Thomas, "Liberia Truth and Reconciliation Commission Retracts Controversial Report," *Voice of America*, July 2, 2009.

an armed political organ rather than a professional military. These seven factions joined to form the Liberian Council of State, in accordance with the 1995 Abuja Peace Accords. However, fighting still continued and 1996 saw some of the war's deadliest battles.

Taylor finally agreed to a peace deal after more than a dozen peace accords and the exhaustion of his military power. A five-man transitional government was established and warring factions were hastily disarmed and demobilised in advance of special elections, held on 19 July 1997. Taylor and his National Patriotic Party emerged victorious. Taylor himself won the election by a large majority, gaining 75 per cent of the vote primarily because Liberians feared a return to war if Taylor lost. However, peace in Liberia did not last long. Taylor's government did nothing to improve the lives of Liberians: unemployment and illiteracy stood above 75 per cent, little investment was made in the country's infrastructure, reconciliation between factions was largely ignored and rule of law was eclipsed by a patronage system that recognised Taylor as its supreme authority.

Taylor's actions not only exacerbated Liberia's intractable civil war; they helped foment civil war in Sierra Leone. Taylor backed the Revolutionary United Front (RUF), a Sierra Leonean rebel group, and reportedly directed RUF operations from Liberia. He is accused of selling them weapons in exchange for diamonds, which they typically extracted with slave labour and under threat of maiming or death; hence the term *blood diamonds*. Owing to the

UN embargo against arms sales to Liberia at the time, the weapons were purchased largely on the black market through arms smugglers such as Viktor Bout.⁶⁸⁶ Taylor is also charged with aiding and abetting RUF atrocities against civilians and assisting in the recruitment of child soldiers. Like Liberia's war, Sierra Leone's civil war was total. More than 200,000 of the country's 2.6 million people were killed. Approximately 800,000 were internally displaced and another 700,000 sought refuge in neighbouring countries. The fighting destroyed much of the country's infrastructure, including water and electricity. Sierra Leone's war also left it a ward of the international community under the protection of the UN Mission in Sierra Leone (UNAMSIL), which had a Chapter VII mandate. The United Nations declared UNAMSIL's mission complete in 2005, although the country remains precariously fragile.

Taylor's misrule at home led to the resumption of armed rebellion among his former adversaries. LURD formed in 1999 and engaged in sporadic fighting with the AFL in northern Lofa County, which borders Guinea; it was headed by Sekou Conneh, a businessman married to the daughter of Guinean president Lansana Conté. By 2000, it was believed that LURD controlled nearly 80 per cent of the countryside. Throughout the fighting both the AFL and LURD were accused of widespread human rights violations as well as child soldier recruitment. In 2003, MODEL formed as an offshoot of LURD in Côte d'Ivoire and enjoyed support in the southeastern counties of Grand Gedeh, Sinoe and Grand Kru. By the spring of 2003, LURD and MODEL

⁶⁸⁶ Farah and Braun, *Merchant of Death*, 167.

had advanced to the outskirts of Monrovia, and intense fighting took place in and around the city. Thus began the siege of Monrovia.

With fighting escalating, Taylor agreed to participate in an ECOWAS-sponsored peace summit in Ghana between the government of Liberia, civil society and the LURD and MODEL rebel groups. In the hope that Taylor's Ghanaian hosts would arrest him, the chief prosecutor of the UN-supported Special Court for Sierra Leone issued a press statement announcing the opening of a sealed March 7, 2003 indictment of Taylor for 'bearing the greatest responsibility' for atrocities in Sierra Leone since November 1996.⁶⁸⁷ Reportedly caught by surprise and unwilling to arrest Taylor, Ghana refused to detain him. Within hours Taylor returned to Monrovia, where the fighting continued and intensified, creating a massive humanitarian disaster. Rebels indiscriminately fired mortars into downtown Monrovia and the bodies of the innocent began to pile up.

Blaney requested military assistance, and in response, the US military established the Joint Task Force Liberia, comprised of three Navy ships and 2,300 troops of the 26th Marine Expeditionary Unit. This force positioned itself off the West African coast and sent a small number of Marines to protect the embassy, which had come under attack. At this point, the rebels were on the mainland trying to cross the bridges to inner-city Monrovia, which Taylor's forces heavily defended. During one of these firefights Blaney walked onto the

⁶⁸⁷ David Crane, "Press Release: Statement on International Women's Day," Special Court for Sierra Leone - The Office of the Prosecutor, March 8, 2003.

middle of a bridge and demanded both sides stop fighting. Amazingly they did.⁶⁸⁸

Finally on 11 August 2003, under intense international pressure, Taylor accepted an ECOWAS-brokered peace deal that offered him asylum in Nigeria. LURD, MODEL and the Government of Liberia signed a comprehensive peace agreement in Accra, Ghana, on 18 August 2003, known as the Accra Accords. This paved the way for the deployment of what became a 3,600-strong ECOWAS peacekeeping mission in Liberia—ECOMIL—and also established a two-year National Transitional Government of Liberia (NTGL), headed by Liberian businessman Gyude Bryant.

The UN Takes Charge

The United Nations took over security duties in October 2003, subsuming ECOMIL into UNMIL, which was authorised 15,000 UN blue-helmet military personnel and 1,115 police officers, making it the world's largest UN peacekeeping mission at the time. UNMIL's mission as established by Security Council Resolution 1509 and led by Jacques Paul Klein was to monitor the ceasefire agreement, but it rapidly evolved into rebuilding the country. In terms of priorities, everything was urgent in Liberia: security, humanitarian relief, good governance, economic stabilisation, democratisation and development. The NTGL nominally led Liberia as the United Nations

⁶⁸⁸ "U.S. Ambassador to Liberia Urges Rebels to Leave Capital," *The New York Times*, July 28, 2003.

prepared the country for elections in 2005, though many regarded the NTGL as a kleptocracy.⁶⁸⁹

The 2005 elections are considered the most free, fair and peaceful elections in Liberia's history. The 11 October 2005 presidential and legislative elections and subsequent 8 November 2005 presidential run-off saw the victory of Ellen Johnson-Sirleaf, former World Bank official and human rights advocate, over George Weah, an international football star and former United Nations Children's Fund goodwill ambassador. Inaugurated in January 2006, President Johnson-Sirleaf, nicknamed the Iron Lady, is Africa's first democratically elected female president. Her government of technocrats draws from Liberia's many ethnic groups and also includes members of the Liberian diaspora—that is, those who had fled the country earlier. In March 2006, her reversal of an earlier position led to Charles Taylor being turned over to the Special Court for Sierra Leone.

The country has remained remarkably stable since the 2005 elections and may even serve as a model of post-conflict stability in a neomedieval world. As Blaney and Klein observed in 2010, 'the country's future may not yet be secure, and much progress has yet to be made, but most of those present in the immediate aftermath of the war in 2003 would agree that today's Liberia is

⁶⁸⁹ On February 27, 2007, Bryant was charged with embezzlement. His government is alleged to have stolen at least \$1 million at a time when the annual gross national income per capita was \$116 (2011 US\$). See: Winter, "Africa - New Front in Drugs War." Data from: "Liberia," United Nations Statistics Division, accessed April 2, 2011, <http://data.un.org/CountryProfile.aspx?crName=Liberia>.

a comparative miracle'.⁶⁹⁰ Johnson-Sirleaf has pursued an ambitious reconstruction agenda aimed at political stability and economic recovery, emphasising job creation, education, attracting investment and infrastructure repair, as well as restoration of public services, security sector reform and a 'government of inclusion'. She has bolstered public trust by taking a strong stand against corruption, which is endemic in Liberia's political system. She has dismissed several government officials, including much of the Ministry of Finance, and supported experienced and technically competent senior officials. Her World Bank background has allowed her to forge strong relations with the international community and donor nations, which is crucial given Liberia's dependence on foreign aid.

Yet political conditions in Liberia are still perilous, as the roots of conflict have not been fully addressed, institutions are weak, development is still taking hold, the region of West Africa is unstable and violence as a political solution is a precedent that cannot be ignored. To date the United Nations ultimately guarantees Liberia's security, and grave concerns remain about the country's future once it departs.

Establishing a State's Monopoly of Force

Before we examine DynCorp International's role in Liberia, we must first understand what it was hired to do: safely demobilise the old army and raise a

⁶⁹⁰ John Blaney, et al., "Wider Lessons for Peacebuilding: Security Sector Reform in Liberia," Policy Analysis Brief (Iowa: The Stanley Foundation, 2010).

new one. The challenges of this are daunting because armed groups are the de facto institutions of power in conflict-affected countries. Any attempt to alter the balance of this power is deeply political. It is also dangerous. Convincing a general or warlord to put down his weapons and become a farmer may not be welcomed and may even provoke violence. In 2002, the government of neighbouring Côte d'Ivoire attempted to demobilise 750 soldiers, who, in response, staged a coup leading to a civil war that lasted for several years, despite a French and UN armed intervention to maintain peace.

Technically, whether one is raising an army of 2,000 or 200,000, the methods and processes are essentially the same, differing only in scale and scope. The two tools needed to acquire the monopoly of force are disarmament, demobilisation and reintegration (DDR) and security sector reform (SSR). DDR consolidates the state's monopoly of force by disbanding the competition, such as militias and insurgents, who threaten the country's ability to impose its governance. SSR professionalises and strengthens the state's armed actors so that they can responsibly enforce the law of the land and defend it from armed threats. In theory, DDR and SSR work together in tandem to help uphold the state's rule of law and are also gateway capacities, since security, law and order are prerequisites of sustainable development. However, in practice, DDR and SSR are often difficult and dangerous. In Liberia, state forces themselves were complicit in wide-scale atrocities and human rights abuses. How exactly does one transform the military from a

symbol of terror into an instrument of democracy? How can one make a soldier someone a child would run toward for safety rather than away from in fear?

DDR: Outlawing the Competition

The first step in establishing a state's monopoly of force is disbanding the competition. This means disarming, demobilising and reintegrating combatants safely into civil society and enabling them to earn livelihoods through peaceful means. DDR is the fulcrum between war and peace. In the short term, those who do not find peaceful ways to make a living are likely to return to conflict or join gangs; in the long term, disaffected ex-combatants can challenge public order and polarise political debate, since they are often easy targets of populist, reactionary and extremist movements. To date, the United Nations is the leader in developing and implementing DDR, with programs in Burundi, Côte d'Ivoire, Democratic Republic of Congo, Liberia, Sierra Leone, Sudan, Uganda, Afghanistan, Nepal, Solomon Islands and Haiti.⁶⁹¹

As the term implies, DDR is a three-stage process. The first stage involves disarming combatants, who report to a safe and secure cantonment site within the conflict zone to turn in their small arms, munitions and light and heavy weapons. This is usually linked to a broader small arms and light weapons counter-proliferation program that documents and destroys the

⁶⁹¹ The United Nations defines DDR as a process that 'deals with the post-conflict security problem that arises when combatants are left without livelihoods and support networks during the vital period stretching from conflict to peace, recovery and development'. See: "UN Integrated DDR Standards (IDDRS)," 24, http://www.unddr.org/iddrs/iddrs_guide.php.

weapons and munitions. The second stage demobilises and disbands the armed non-state groups, formally breaking up command structures and marking their official entry into civilian life. Lastly, ex-combatants are reintegrated into civil society to prevent another escalation of conflict. This typically is divided into two parts: initial rehabilitation and long-term reintegration. Initial rehabilitation entails giving ex-combatants short-term support packages and transporting them back to their homes to begin their new lives. Long-term reintegration involves job training and placement programs, working with communities to accept ex-combatants and monitoring progress in the difficult transition to civilian life. The overall goal of DDR is to ensure permanent demobilisation and sustainable peace.

DDR is fraught with operational challenges that can quickly backfire, possibly fomenting armed conflict. First, combatants often do not relinquish their weapons if they do not believe the peacekeeping force can ensure their safety. Owing to this, the peacekeeping force must be large enough to monopolise force and perceived as credibly neutral by all parties, which is tricky in a post-conflict country where distrust is ubiquitous. Second, armed groups generally hold back their best fighters and weapons as a hedge against others who renege on the peace agreement. This creates a prisoner's dilemma that encourages pre-emptive defections from the peace process, as rebel groups fear that rivals will defect first and gain the advantage of surprise in a

renewed war.⁶⁹² Mismanagement of a DDR process—which is easy to do—creates a classic race to the bottom.

Third, a combatant group typically disarms only if all combatants disarm; otherwise the disarmed are vulnerable to the armed, who may seek reprisal or gain against their defenceless enemies. Although simple in theory, simultaneously disarming tens of thousands of combatants in a highly chaotic and dangerous failed state with little logistical infrastructure and much unresolved bad blood is thorny in practice. Fourth, the victims of violence may not welcome DDR, as they may question why the worst actors in the war are rewarded with money and jobs while the innocent get little or nothing—even if failing to transition combatants to civilian life almost guarantees more violence and victims.

Lastly, a DDR process requires a reliable funding source. A program that runs out of money halfway through can be worse than no program at all, since a temporary or premature shut-down may provoke an attack by the armed on the unarmed or encourage ex-combatants to take up the gun again to make a living. Also, ex-combatants who are denied benefits might seek reprisals against DDR staff. Unfortunately, it is difficult to forecast DDR funding needs in conflicts like that in Liberia, where nearly everyone is a perpetrator of violence, a victim, or both. Owing to this, many DDR programs

⁶⁹² The prisoner's dilemma is a fundamental problem in game theory that demonstrates why two people might not cooperate even though it is in both their best interests to do so.

prioritise the *DD* to get the guns and gangs off the streets but leave the *R* to wither.

The problem of the forgotten *R*—that is, not fully reintegrating ex-combatants into society—involves them turning rogue again, perpetuating the cycle of violence as they earn a living or gain status through violent crime. This manifests itself most visibly in criminal gangs, which often form from demobilised groups and can terrorise the population, hinder peace efforts, and challenge the new police and army's legitimacy. Worse, unlike combatant groups, gangs cannot undergo DDR because they are a law enforcement problem and must be arrested, tried and incarcerated within the criminal justice system.⁶⁹³ In a failed state this adds a layer of complexity to an already complex situation.

In Liberia, the United Nations and United States shared DDR responsibilities. The United Nations conducted the bulk of DDR as it disarmed the entire country and demobilised and reintegrated non-state armed actors, such as LURD and MODEL, as well as Liberian law enforcement. The United States, through DynCorp International, demobilised and reintegrated the AFL, which will be discussed below. According to the United Nations, it disarmed and demobilised 101,495 combatants and received 28,314 weapons and 6,486,136 rounds of small arms. Despite these numbers, the United Nations suffered setbacks, which is not surprising given the plethora of

⁶⁹³ For more information on this problem, see: Michael J. Dziedzic, et al., *Haiti: Confronting the Gangs of Port-Au-Prince* (Washington, DC: United States Institute of Peace, 2008).

problems associated with DDR in failed states. There was a great deal of corruption and fraud regarding qualification for DDR benefits, resulting in incredibly high numbers of ex-combatants; many observers believe the number of actual combatants was closer to 38,000.⁶⁹⁴

Detractors also argue that UNMIL began its program prematurely, in December 2003, before sufficient peacekeepers were on the ground to guarantee security. Serious riots erupted at the start of the program at Camp Schefflin, a DDR site just outside of Monrovia, and it was shut down. The riots were a planned attempt to disrupt UN efforts and create instability, largely to increase monetary profits for warring factions, and would have happened whenever the DDR program began.⁶⁹⁵ Four months later, however, the program resumed without incident, and remains one of the most comprehensive programs of its kind.

SSR: Acquiring the Monopoly of Force

Working in tandem with DDR, SSR institutes the monopoly of force within a territory and enables the authority—government or otherwise—to enforce its rule of law.⁶⁹⁶ Like DDR, it is deeply political and does not easily move from

⁶⁹⁴ The number of demobilized fighters (101,495) is debatably high. During the 2003 CPA talks with LURD and MODEL faction leaders, the number of combatants, including the AFL, had been put at approximately 38,000. Furthermore, less than 30,000 weapons were submitted and the majority of DDR recipients qualified through the submission of ammunitions. Lastly, Liberians reported widespread fraud was committed during the DDR process. Source for numbers: UNMIL, Disarmament, Demobilisation, Reintegration And Rehabilitation. For discussion of Liberia DDR, see: Josef Teboho Ansoorge and Nana Akua Antwi-Ansoorge, "Monopoly, Legitimacy, Force: DDR-SSR Liberia," in *The Monopoly of Force*, ed. Melanne Civic and Michael Miklaucic (Washington, DC: NDU Press, 2011), 265-284.

⁶⁹⁵ Blaney, et al., "Wider Lessons for Peacebuilding," 5.

⁶⁹⁶ 'Security sector reform' has many names: security and justice reform, security sector governance, security sector development, security force assistance, foreign internal defence, security sector [or system] transformation, etc. While recognizing that these terms may connote subtle differences in

theory to practice. Program failure risks coup d'état, war or worse. Security in this context means protecting citizens and the state from threats that endanger normal life, public safety and survival. The security sector is generally comprised of public organisations and government agencies with the primary mission of providing security. SSR seeks to transform these organisations and institutions into professional, effective, legitimate, apolitical and accountable actors that support the rule of law.⁶⁹⁷

SSR involves more than train-and-equip programs, which, though necessary, only create better-dressed soldiers who shoot straighter. More comprehensively, SSR should encompass creating new institutions, facilitating force structure⁶⁹⁸ decisions, formulating national security strategy and doctrine, recruiting and vetting new forces, constructing military bases and road infrastructure, selecting leadership, establishing oversight mechanisms within ministries and parliament and many other complex tasks that go well beyond simply training and equipping troops.

conceptualization and the word 'reform' is problematic for some, this thesis will assume the term security sector reform is generic and all-encompassing. Furthermore, it is the term adopted by the US State Department and DynCorp International in Liberia.

⁶⁹⁷ Although SSR seeks to uphold the rule of law, it should not be confused with justice sector reform (JSR). The programs are interdependent but entail distinctly separate tasks. A SSR program should not attempt to rewrite a country's constitution or laws, address past human rights abuses and crimes against humanity or attempt to integrate indigenous systems of justice with international norms. Nor should a JSR program attempt to recruit and train military and police forces, determine weaponry and organisational structure of security forces or draft the national security strategy. Such attempts would likely result in failure owing to a mismatch of expertise and functions.

That said, an SSR program operating without a corresponding JSR program will likely be unsuccessful. Without legitimate laws to enforce, police legitimacy suffers; officers can end up being stooges for a corrupt legal system. Similarly, JSR program operating without a commensurate SSR effort will probably fail because criminal justice systems require professional police, prisons, customs and other instruments of law enforcement. SSR and JSR rise and fall together: though operationally distinct, they should be conceptually integrated.

⁶⁹⁸ In military parlance, a 'force structure' is the organisation and hierarchy of units within an army, from the general staff down to the basic infantry squad. It is similar to a massive organisational chart for an army, and it outlines how military personnel, weapons and equipment are organised for the operations.

There are three types of actors in the security sector. Operational actors interact directly with the public on security matters and may include law enforcement, military and paramilitary forces, border control, customs, immigration, coast guard and intelligence services. Institutional actors manage the policy, programs, resources and general administration of operational actors and may include ministries of defence, interior and justice. Oversight bodies monitor and supervise the security sector; they are ideally civilian led, democratically accountable to citizens and able to ensure that the security sector serves the people and not vice versa. Oversight bodies may include the executive, legislative and judicial branches of government as well as municipal and district authorities. One may conceptualise the security sector as a pyramid of actors (see Figure 9). Not included in the security sector are non-statutory security forces—that is, liberation armies, armed criminal gangs, guerrilla forces, PMCs, insurgents and political party militias.

Figure 9: Taxonomy of the Security Sector



The three types of actors can, in turn, be grouped into security sub-sectors, distinguished from one another by unique objectives, technical knowledge, capabilities, best practices, institutional culture and professional ethos. Sub-sectors can overlap and vary widely among countries and regimes. But the idea is useful for understanding the security sector in any given country or governed area. Taken together, the hierarchy of actors and security sub-sectors form a matrix of the security sector (see Table 2).

Table 2: Conceptual Framework of the Security Sector⁶⁹⁹

Security Sub-Sector	Operational Actors	Institutional Actors	Oversight Actors
Military	Military, civil defence forces, national guards, militias, paramilitary	Ministry of Defence	Executive, Legislative, Parliament
Law Enforcement	Police, gendarmerie, prison, criminal justice, presidential guard	Ministry of Interior, Ministry of Justice	Executive, Legislative, Parliament, Judiciary, Municipal and District Governments and Councils
Border Management	Border control, immigration, coast guard, customs authorities	Ministry of Interior, Ministry of Defence	
Foreign Relations	Embassies, attachés and security liaison officers	Ministry of Foreign Affairs, Ministry of Defence	Executive, Legislative, Parliament
Intelligence	Collection assets	Intelligence agencies	

As the matrix suggests, building sub-sector capacity and professionalising actors make SSR a fundamentally complex effort, and creating a truly successful program remains a major unmet challenge for the

⁶⁹⁹ This table serves only as an example, as every security sector is unique, although most have a military, police and other elements.

international community, despite the growing prevalence of peacekeeping missions and nation building around the world.⁷⁰⁰ There is no practicable doctrine, best practice or even common terminology.⁷⁰¹ The concept itself has no commonly accepted definition and has many names: security and justice reform, security sector governance, security sector development, security force assistance, foreign internal defence, security system transformation.⁷⁰² As efforts to re-establish the security sectors in Iraq, Afghanistan and elsewhere

⁷⁰⁰ This is largely due to a gap between theory and practice. SSR theory is generally conceived by academics, human rights lawyers and international development specialists who produce normative SSR frameworks espousing human rights, democracy and sometimes a near-utopian endstate for the world's most dangerous places. To achieve this SSR vision, the United Nations, donor states and a pantheon of global actors involved in SSR must work together in a holistic and seamless manner, and will require, as Mark Sedra explains, 'a radical change in the modus operandi of donor states in how they provide assistance' (17). For examples of this SSR approach, see: Mark Sedra, ed. *The Future of Security Sector Reform* (Waterloo, Canada: The Centre for International Governance Innovation, 2010), and its authors; Organisation for Economic Co-operation and Development and Development Assistance Committee, et al., *The OECD DAC Handbook on Security System Reform: Supporting Security and Justice* (OECD, 2007).. Such a vision is impracticable. Absent from this idealisation are the voices of practitioners, such as military professionals, who are often too busy in the field to attend academic conferences on SSR. Unfortunately, they tend to treat SSR as a train-and-equip exercise and ignore its other vital roles, which is equally untenable, as demonstrated by US efforts in Iraq and Afghanistan. See: "Joint Publication (JP) 3-07.1: Joint Tactics, Techniques, and Procedures for Foreign Internal Defense (FID)," April 30, 2004, <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA434396&Location=U2&doc=GetTRDoc.pdf>; U.S. Army and U.S. Marine Corps, *FM 3-24/MCWP 3-33.5: Counterinsurgency*, chapter 6.; U.S. Army, *FM 3-07.1: Security Force Assistance* (Washington, DC: Headquarters, Department of the Army, 2009). Owing to this, some theorists have challenged the orthodox theory of SSR and advocate for pragmatic SSR that deals with discrete elements of the security sector, occupying a middle ground between the sweeping all-or-nothing approach of academic idealists and the narrow train-and-equip thinking of practitioners. See: Eric Scheye, "Realism and Pragmatism in Security Sector Development," (Paris: OECD, 2010).

⁷⁰¹ Attempts have been made to formalise and operationalize SSR best practices but serious problems persist. For one, SSR is a complex process that requires the close integration of security and development organisations, yet most attempts to conceive SSR are conducted by either security or development agencies but not both. The result is conceptual incoherence. Security organisations tend to fold SSR into combat doctrine under the nebulous rubric of stability operations. For example, the US Army devotes but a single chapter to this complex topic in both Field Manual 3-24, *Counterinsurgency*, and Field Manual 3-07, *Stability Operations*, and only discusses abstract principles of SSR rather than operationalising the idea, which is the singular purpose of military field manuals. See: U.S. Army and U.S. Marine Corps, *FM 3-24: Counterinsurgency*; *FM 3-07: Stability Operations*. Similarly, development agencies tend to propagate legalistic and donor-oriented methods, focusing on standards and norms rather than advancing concrete methods or strategies for conducting SSR on the ground. See, e.g.: OECD, et al. *The OECD DAC Handbook on Security System Reform*. To date, neither the United Nations nor any other international organisation, NGO or country has developed a comprehensive approach to SSR capable of being operationalised.

⁷⁰² There are many reasons for this theoretical dissonance, including: SSR's recent development as a post-Cold War concept; difficulty in safely implementing SSR programs; and coordination challenges between security and development implementing organizations—which typically do not integrate well—since SSR straddles the security-development nexus.

illustrate, few practical models for SSR have been developed, perpetuating cycles of violence in fragile states and prolonging costly peacekeeping missions.

In Liberia, the Accra Accords specifically mandate SSR (see Part 4 of the accords in Annex A).⁷⁰³ In sharing responsibilities for the process, UNMIL assumed the restructuring of civilian elements of the security sector and the United States the transformation of the military sub-sector, owing to its historical ties to Liberia and especially its defence. The US Navy guaranteed security during the nineteenth century; the United States oversaw the creation of the Liberian Frontier Force in 1908, used Liberia as a strategic logistical supply node for the North Africa campaign of World War II, and gave substantial military aid to Liberia during the Cold War. Also, as an internal State Department document explained, the ‘international community expects the US to take the lead in this endeavour. No other country will do so’.⁷⁰⁴ The crucial task of rebuilding Liberia’s military was outsourced to DynCorp International, which worked in parallel with the United Nations but not under it. Contracting the wholesale reconstitution of a nation’s armed forces to a private firm had not been attempted since the early nineteenth century, and remains one of the most controversial facets of Liberia’s recovery.

⁷⁰³ “Part Four: Security Sector Reform, Article VII Disbandment of Irregular Forces, Reforming And Restructuring of the Liberian Armed Forces,” in “Comprehensive Peace Agreement Between the Government of Liberia and the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and Political Parties.”

⁷⁰⁴ “USG Pre-Assessment Trip to Liberia on Security Sector Reform,” US State Department, January 2004.

Decision to Outsource

The US government did not originally intend to outsource the making of Liberia's military; necessity drove the decision. The client was the US Department of State (State Department) since it was responsible for managing the US commitments to Liberia as agreed to at Accra, including SSR for the AFL. To this end, State Department organised a five-person SSR pre-assessment trip, made from 21 to 29 January 2004, with members from the State Department and DOD. The purpose was to better understand the general requirements for Liberia's military SSR in advance of a fuller assessment. After meeting with UN Chief Klein, US Ambassador Blaney, Liberian Chairman Bryant (the title 'President' was deemed inappropriate for a interim head of government) and leaders of the AFL, LURD, MODEL and others concluded that Liberia needed 'a small, mobile defence force to provide border, coastal and internal security to support their mission' and estimated the size of the military should be from 3,000 to 6,500 personnel.

The pre-assessment team also observed UK efforts to rebuild the military of neighbouring Sierra Leone and determined not to use the British model of SSR, concluding that 'while IMATT' [UK's International Military Assistance Training Team] was initially viewed as a success story in Sierra Leone, the UK now admit to many problems that they have yet to resolve'. One of the primary challenges was in incorporating all units into the new security forces regardless of experience, capability and the country's security

needs. This created significant problems in the quality control of troops and the sheer number of forces, which the government of Sierra Leone could not sustain. Lastly, the team considered four options for who should conduct implementation: the US military alone, the US military with light contractor involvement, a contractor with light US military involvement or a contractor alone.⁷⁰⁵ They would let the upcoming SSR assessment trip combined with budget considerations decide the matter.

The Liberia SSR assessment trip followed on 19 to 26 May and included some twenty experts drawn from the State Department, the DOD's European Command (EUCOM, the unified command responsible for West Africa at the time) and three companies: DynCorp, Pacific Architects and Engineers (PAE) and MPRI.⁷⁰⁶ The purpose of this evaluation mission—during which one of the DOD civilian staff members was murdered—was to determine the operational requirements for SSR of the AFL and Ministry of Defence.⁷⁰⁷ At the conclusion of the trip the team proposed to the US embassy a restructured AFL, which it called the New Armed Forces of Liberia (NAFL). The NAFL's mission would be 'to defend and protect the people of Liberia and the sovereignty of the nation against external and internal threats and to effectively respond to humanitarian crisis'. To achieve this it would require an

⁷⁰⁵ Offering no US support for Liberia SSR was also considered, but dismissed. "USG Pre-Assessment Trip to Liberia on Security Sector Reform," US State Department, January 2004.

⁷⁰⁶ DynCorp International and MRPI are PMCs while PAE is a GC firm; it does primarily construction work, specializing in conflict zone operations. PAE personnel do not carry weapons or train others how to use them.

⁷⁰⁷ Robbers killed John Auffrey, a DOD civilian, in his room at the Mamba Point Hotel, Monrovia, on May 23, 2004. At the time, he was the security assistance program administrator at the US Embassy in Namibia.

armed force of 4,020 personnel, consisting of one light infantry brigade (three infantry battalions, one engineer battalion, one base support battalion), one maritime patrol battalion, one aerial reconnaissance company, one military police company, an AFL headquarters company and a military band.⁷⁰⁸

However, other than the NAFL's mission and force structure the team completely overlooked many thorny yet essential components of SSR, among them DDR for the legacy armed forces, a recruitment plan in a state with destroyed infrastructure and low literacy, a vetting plan for personnel in a country where war crimes were rampant and background checks nearly impossible, the restructuring of the Ministry of Defence, leadership selection, a national military strategy, fostering local ownership and the domestic political ramifications of making a new military. There was no consideration for how Liberia's population would receive the re-creation of the military; many would not welcome it, given the AFL's troubled past, and the Accra Accords mandated that this be addressed. On 10 June DynCorp submitted its own seventy-eight page assessment of SSR for the AFL to the State Department that addressed most of these concerns.

Following the assessment mission, the DOD quickly concluded it could not conduct the SSR program due to resource constraints and ongoing operations in Iraq and Afghanistan.⁷⁰⁹ Consequently the State Department was

⁷⁰⁸ "New Armed Forces of Liberia Force Opt Working Brief" (paper presented at the SSR Assessment Mission, Monrovia, 2004).

⁷⁰⁹ It may also have something to do with the DOD's general aversion to all things African following the 1993 Somalia disaster.

left with a Hobson's choice: either outsource the entire SSR program to the private sector or have no SSR for the AFL. The State Department chose the former and made history without meaning to.

The Contracting Process

During the summer of 2004 the State Department tendered a request for proposal (RFP) to the private sector to rebuild Liberia's armed forces. In the US government's contracting system, a RFP is an invitation to bid on a contract, and bids generally consist of two parts: a technical proposal and a cost proposal. The technical proposal explains the company's plan to achieve the objectives outlined in the RFP and the cost proposal estimates in detail—from airplanes to pencils—the estimated cost in time, material and labour needed to fulfill the contract. Typically firms dedicate considerable, non-reimbursable resources to crafting detailed proposals and submitting them on time, as the government does not accept late proposals.

Only two companies, DynCorp and PAE, were allowed to submit bids on the RFP for the Liberia SSR contract, as only they had earlier won a five-year indefinite delivery–indefinite quantity (IDIQ) contract from the State Department to support peacekeeping and security efforts in Africa. As the name suggests, IDIQ contracts provide for an indefinite quantity of services during a fixed period of time; the government uses them when it cannot predetermine the precise amount of supplies or services it will need for

complex operations, such as peacekeeping.⁷¹⁰ Such a contract does not represent a firm order for services, but pre-qualifies companies to bid on future contracts that might arise under the scope of the IDIQ contract.⁷¹¹ This helps streamline the contract process and speed service delivery, as negotiations can be made only with the pre-qualified companies and such contracts are exempt from protest.⁷¹² Because IDIQs act as large umbrella contracts between the United States and the private sector, they are usually awarded to multiple firms. For Liberia, those firms were DynCorp and PAE.

IDIQ contracts work in a relatively uncomplicated way. They stipulate a needed range of services over a period of time, starting with a base year followed by a number of option years. They also guarantee a minimum and maximum amount of money spent on contracts overall. The government makes no guarantee regarding the number of sub-contracts it will issue under the IDIQ or the actual amount of expenditure above the guaranteed minimum value, but companies compete vigorously to obtain an IDIQ because it gives them exclusive access to lucrative agreements as a prime contractor to the

⁷¹⁰ The legal origin of IDIQ contracts comes from the US Federal Acquisition Regulations (FAR), section 16.501(a).

⁷¹¹ There are typically three types of contracts that an IDIQ contract authorizes: fixed-price type contracts, time-and-materials type contracts and cost-reimbursement type contracts. In a fixed-price contract, the price is not subject to adjustment based on costs incurred, which can favourably or adversely affect the firm's profitability depending on its execution in performing the contracted service. Fixed-price contracts include firm fixed-price, fixed-price with economic adjustment and fixed-price incentive. Time-and-materials type contracts provide for acquiring supplies or services on the basis of direct labor hours at fixed hourly/daily rates plus materials at cost. Cost-reimbursement type contracts provide for payment of allowable incurred costs, to the extent prescribed in the contract, plus a fixed fee, award fee or incentive fee. Award fees or incentive fees are generally based on various objective and subjective criteria, such as aircraft mission capability rates and meeting cost targets.

⁷¹² As per Federal Acquisition Regulation's subpart 33.

government rather than as a sub-contractor to another firm acting as the prime.

When the government needs services or supplies that fall under the IDIQ it tenders a RFP and a statement of work (SOW), which explains what the contract entails, to the pool of pre-selected companies on the IDIQ. Orders placed for supplies are called delivery orders; those for services are called task orders. Once the RFP is issued for either a delivery or task order, the companies on the IDIQ contract bid for the work. Contracts are typically awarded under a best-value approach and large orders are usually awarded to multiple firms while smaller ones are not. Once the government selects its contractors, it issues them a notice to proceed (NTP), which authorises them to commence work in exchange for payment. The delivery or task order normally requires deliverables from the contractor to the government, such as a delivery schedule and reporting requirements, to ensure accountability.

The IDIQ for Liberia had a five-year period of service, from 1 January 2003 to 26 May 2008, consisting of one base year and four option years, and draws funding from the State Department peacekeeping operations (PKO) account (see Annex B for more details). It had a minimum guaranteed expenditure of \$5 million and a maximum of \$100 million, which was later expanded to \$500 million (see Annex B and C). Although only DynCorp and PAE could bid on the contract, MPRI joined PAE on the Liberia assessment mission as a sub to PAE, given MPRI's strong background in raising military

forces and PAE's lack of it. All in all, the costs of training the AFL by 2009 were an estimated \$240.56 million.⁷¹³

Purchasing a New Army

On 17 September 2004, the State Department issued its SOW for rebuilding the Liberian military. It was only seven pages long. The objective and scope were deceptively simple: assist the government of Liberia in recruiting, training and equipping a new military beginning with 2,000 personnel. Consultations over the summer among the State Department, DOD, DynCorp and others concluded that the AFL should be a 2,000-person, all-volunteer force that could be scaled upward over time. It was acknowledged that 2,000 soldiers could not defend the entire country should a full-scale war erupt, but the size was constrained by the government's ability to regularly pay soldiers' salaries, as precedent suggested unpaid soldiers were a greater threat to Liberia's security than an invading army was. Klein even suggested that Liberia abolish its military altogether, quipping that African armies 'sit around playing cards and plotting coups'.⁷¹⁴

After reviewing both proposals, the State Department decided to divide the duties between the two contractors, giving them different roles

⁷¹³This US government money was mostly drawn from a mix of fiscal years 2004 through 2007 international disaster and famine assistance, regional peacekeeping and foreign military assistance funds. Cook, *Liberia's Post-War Recovery*, 6, 18.; Cook, *Liberia's Post-War Development*, 22.

⁷¹⁴Klein suggested that Liberia could make do with a decent police force and a well-trained border security force of 600 to 700 men. Actual statement made November 5, 2003. "Liberia: US Hires Private Company to Train 4,000-Man Army," *IRIN Africa*, February 15, 2005. His opinion may have also been informed by UNMIL's civilian police (CIVPOL) commissioner, Mark Kroeker, who told US State Department personnel that Liberia needed a robust police force and not a military. USG Pre-Assessment Trip to Liberia on Security Sector Reform," US State Department, January 2004.

based on their expertise. DynCorp would perform the bulk of the SSR at both the operational and institutional levels. At the operational level, it would rebuild the AFL from the ground up, which entailed the designing, recruiting, vetting, training, equipping and fielding of the new force. At the institutional level it would also create a new Ministry of Defence and establish systems for personnel management, intelligence, force integration and planning, resource management, communications, information management, public affairs, procurement and acquisition, internal audit and other ministerial functions. PAE would build the logistical infrastructure, such as roads and military bases, necessary to support the AFL once the SSR was well under way, and also provide limited mentorship when the units were in place. Both firms were required to construct military bases and other facilities as needed, with State Department approval. Absent from the initial plan was the DDR of the legacy AFL, which was originally to be conducted by the Liberian government but later fell to DynCorp owing to the government's lack of capacity.

In short, DynCorp was contracted to raise an army. The company was not contracted to perform SSR of the entire Liberian security sector, since UNMIL was transforming civilian actors, such as the police, and other entities were responsible for security sector governance, the legislature and the national security strategy. DynCorp's work was limited to transforming the institutional and operational actors of the military sub-sector.⁷¹⁵ The envisioned

⁷¹⁵ Amazingly, academic treatments of the AFL SSR program tend to overlook this essential fact. For example, see: Nicole Ball, "The Evolution of the Security Sector Reform Agenda," in *The Future Of*

end was as an ethnically balanced, properly vetted, professionally trained, civilian led and apolitical military capable of ‘defending the national sovereignty and in extremis, respond to natural disasters’, as called for by the Accra Accords.⁷¹⁶

DynCorp Goes to Liberia

Three individuals spearheaded DynCorp’s effort, including the author. Most of the first year was dedicated to designing the program, identifying implicit tasks and engaging key stakeholders, with the assistance of the US defence attaché to Liberia. Stakeholders included the legacy force, former rebels, the host government, the international community (those who were in Liberia) and civil society. Recent scholarship suggests that DynCorp did little or no outreach to Liberians to establish local ownership. This is untrue: DynCorp’s chief interlocutor with Liberian civil society was the NTGL itself, primarily through the interim minister of defence, Daniel Chea.⁷¹⁷

By July 2005 a vision for the new AFL and Ministry of Defence emerged along with guiding principles for its reconstitution. Because the program was designed by a MNC and not the US military, DynCorp resisted

Security Sector Reform, ed. Mark Sedra (Waterloo, Canada: The Centre for International Governance Innovation, 2010), 37.

⁷¹⁶ AFL mission statement taken from the CPA: “Comprehensive Peace Agreement Between the Government of Liberia and the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and Political Parties.”, Part Four, Article VII, Para. 2.c.

⁷¹⁷ For example see: Morten Bøås and Karianne Stig, “Security Sector Reform in Liberia: An Uneven Partnership Without Local Ownership,” *Journal of Intervention and Statebuilding* 4, no. 3 (2010): 285-303.; Adedeji Ebo, “Liberia Case Study: Outsourcing SSR to Foreign Companies,” in *No Ownership, No Commitment. A Guide to Local Ownership of Security Sector Reform*, ed. Laurie Nathan (Birmingham, UK: University of Birmingham, 2007); Mark Malan, “Security Sector Reform in Liberia: Mixed Results From Humble Beginnings,” (Carlisle, PA: Strategic Studies Institute, 2008).

the temptation to build a large army in the United States' own image, as has occurred in Afghanistan and Iraq, with mixed results. Instead, the firm sought to craft—in partnership with the United States and Liberia—an armed force tailored to Liberia's unique regional needs.

Owing to the AFL's troubled legacy during the civil war, it was agreed that the old AFL should be completely demobilised and rebuilt to ensure systematic human rights vetting of new recruits and also assure the population that this really was a new AFL. The new force would be open to all Liberians regardless of sex, tribe or religion, and selection and promotion would be based on merit rather than cronyism or nepotism. Recruitment would maintain a twelfth-grade functional literacy standard and work to achieve a balanced ethnic and gender mix within the ranks. All candidates would be vigorously vetted for past human rights abuses on an individual basis. Training would foster an apolitical professional ethos, especially in the leadership, that respected the rule of law, cultivated an ethos of public service and accepted civilian control of the military.⁷¹⁸ Throughout the DDR and SSR process, DynCorp would manage a public sensitisation program crafted mostly by local Liberians rather than international media consultants. The concept of human security would inform the design and strategy of the AFL, marking one of the earliest attempts to operationalise the idea.

⁷¹⁸ National Transitional Government of Liberia, *Executive Order No. 5: Demobilisation and Retirement of Soldiers*, 2005.; National Transitional Government of Liberia, *AFL Restructuring Policy*, 2005.; Government of Liberia, *Liberian National Defense Strategy (Draft)*, 2006.

The force structure of the new AFL and Ministry of Defence was designed to be strong enough to repel limited cross-border attacks but not so strong as to threaten Liberia's neighbours. This entailed a small, basic, well-trained motorised light infantry regiment without heavy or expensive weaponry, such as artillery, armour or fighter planes. The plan also proscribed the creation of special forces and other secretive, elite units that could easily become politicised killing machines, as the former Anti Terrorist Unit, the Special Anti Terrorist Unit, the Black Berets, the Special Security Service and the Special Operations Division became during the civil war.

On 17 July 2005, DynCorp proposed an initial force structure and table of organisation and equipment (TO&E)—the blueprint for the new AFL—to the State Department. A TO&E is a master inventory of all personnel and equipment within the military, delineating for each unit the exact number, rank, title and military occupational specialty of every individual and the name and quantity of each piece of equipment. Several models of the AFL and MOD were considered, including ones with agricultural battalions so the AFL could source its own food (rejected because it could lead to corruption within the ranks) and a robust engineer battalion to help rebuild the country and strengthen bonds with the local populace (rejected because it was too expensive).

The initial blueprint presented to and approved by the State Department in 2005 called for an AFL of just under 2,000 soldiers, comprising

a brigade headquarters company, two light infantry battalions, an engineer company, a military police company, a training company, a military band and three military personnel. The Ministry of Defence was a lean 100 people and all but three were civilians. This blueprint has changed over time, but the original concept for the AFL remains.

Program Progression

It is impossible to truncate a multi-year, highly complex program—with more than a few surprises—into a thesis, and a brief timeline is included in Annex D to provide coherence. The original plan anticipated training beginning a few months after the NTP, but pre-program consultations and start-up operations took longer than expected. Working in a country as sacked and pillaged as Liberia is problematic; accomplishing even a straightforward task in a place without infrastructure, institutions or social trust is gruelling, like war itself. As Clausewitz reminds us, ‘everything in war is simple, but the simplest thing is difficult’.⁷¹⁹

Significant surprises beyond DynCorp’s control slowed the program, costing the client money, the company time and Liberia its defence. Construction was expensive and delayed as many materials had to be imported, theft was rampant and concrete did not dry well in the monsoon-like rainy season from April to September. Building the new training base—

⁷¹⁹ The original State Department plan specifies that training begin within three months of the contract award, meaning that basic training would commence in January 2005. In reality, the first basic training class started July 2006. Clausewitz, et al., *On War*, 119.

and all training—was suspended for eight months as Liberia, the United States and UNMIL debated the base's location. Finally in July 2006 the former Voice of America transmitter site was selected at Careysburg and rechristened the Sandee S. Ware Military Barracks.⁷²⁰ DynCorp started construction once the occupying UNMIL units moved off site. Another major surprise was the NTGL's inability to safely demobilise the legacy AFL, a duty that fell to DynCorp in early 2005.

The SSR program was originally envisaged as proceeding in several steps. In reality the program's progression was ambiguous and fluid due to intervening challenges, though in retrospect, it had three relatively distinct phases. During this time, security was provided by UNMIL's large peacekeeping force. Phase I began when the State Department decided to outsource the SSR program to the private sector and involved a small team of contractors to design the program and meet with stakeholders. Phase II commenced on 15 May 2005, when Chairman Bryant signed Executive Order Number Five authorising the full demobilisation of the legacy AFL on 30 June 2005.⁷²¹ After this, the State Department issued DynCorp an NTP for the program in full, and the company began to recruit and train staff (both local and international), acquire compounds and equipment for operations, construct a customised DDR site outside of Monrovia, demobilise 13,770

⁷²⁰ Voice of America (VOA) is the official external broadcast institution of the United States federal government. During the Cold War, VOA maintained a large facility in Liberia but was sacked during the Liberian Civil War.

⁷²¹ National Transitional Government of Liberia, *Executive Order No. 5*.

members of the legacy AFL, plan the public sensitisation campaign regarding the AFL's reconstitution and formulate a systematic recruiting and vetting plan.

Chief among the challenges of Phase II was demobilising Liberia's standing army peacefully while continuing to maintain security. This included determining who was eligible for demobilisation benefits, finding donor money to pay for those benefits, trying to prevent fraud and anticipating unwelcome public response amid fears that disgruntled demobilised soldiers would incite political violence. Building the site on the outskirts of Monrovia involved its own challenges: finding competent construction companies, theft of materials and significant delays caused by the rainy season.

Phase III began in January 2006 with the completion of the old force's demobilisation and the start of recruiting the new force. This phase involved a national public sensitisation and recruiting campaign, rigorous vetting, creation of a basic training or initial entry training (IET) course, and Ministry of Defence training. It also required equipping the new force, legally purchasing and shipping arms to Liberia from eastern Europe, and building the necessary bases. Determining entry standards for recruitment—in the hopes of instilling a professional, apolitical ethos that placed service to the country above tribe or individual—was problematic. Many Liberians were not sufficiently literate. Attracting women to the AFL was difficult because men historically filled the ranks. Vetting candidates and selecting leadership was complicated by a lack of public records. All AFL policies had to be created while simultaneously

transforming the Ministry of Defence, hiring and training all its civilian personnel and synchronising its development with that of the larger government.

Phase IV entailed fielding the new force and program termination. PAE was responsible for constructing all non-training military facilities, settling individual soldiers into units once they left training and providing unit mentors. In 2009 Liberia's two infantry battalions underwent a certification exercise modelled on the US Army Readiness Training Evaluation Program (ARTEP). The contract ended in 2010 and a team of sixty US Marines began a five-year mentorship program with the AFL called Operation Onward Liberty.⁷²² Today the AFL continues its development, transformed from an instrument of terror into one of stability. The International Crisis Group, a watchdog NGO, assessed that 'the SSR program, in particular army reform, is a provisional success'.⁷²³

Razing an Army: *Que Sera Sera*

Eliminating armed competition is important for any mercenary career. In the Middle Ages, the *condottieri* frequently discharged other armies by destroying them, so perhaps it is a sign of the times that DynCorp demobilised one

⁷²² Although DynCorp was not quite out of Liberia yet. In a new task order (worth \$20 million if all options were exercised), DynCorp was selected to provide the AFL with operations and maintenance services. This task order was awarded under the new five-year State Department IDIQ contract called the Africa Peacekeeping Program (AFRICAP), contract solicitation number SAQMMA08R0237. Awardees under AFRICAP include DynCorp International, PAE Government Services, AECOM, and Protection Strategies Incorporated.

⁷²³ International Crisis Group, *Liberia: Uneven Progress in Security Sector Reform, Africa Report no. 148* (International Crisis Group, 2009), 9.

without bloodshed. True, no army stood against DynCorp on the plain of battle, but this does not mitigate the fact that few—if any—modern African armies have faded away peacefully, as demonstrated by Liberia’s neighbour Côte d’Ivoire. Attempts by the US military to retire forces in Iraq and Afghanistan have only led to greater insurgency and violence. In Liberia there was no such resistance. By the time the United Nations intervened, there seemed to be genuine war fatigue in the country, but the lack of violence is also due to the manner in which DynCorp demobilised the old AFL.

On 18 May 2005, Chairman Bryant publicly proclaimed Executive Order Number Five at a national press conference in the presidential palace; as his entourage departed the AFL band played ‘Que Sera Sera’. The order, which had the force of law, declared the entire AFL officially decommissioned on 30 June 2005. Afterwards, Minister of Defence Chea told reporters that the demobilisation exercise would take place in the months ahead and would be done by DynCorp, expressing confidence in the company. At the time there was a real fear that members of the AFL would dig up cached weapons and challenge the authority of the state or demand greater remuneration in exchange for cooperation. Luckily, no such violence occurred, but it was a constant worry: in April 2006, 400 to 500 ex-soldiers threatened there would be ‘no Christmas’ if they did not receive salary arrears for their service.⁷²⁴

⁷²⁴ In late April 2006, 400 to 500 former AFL soldiers conducted a violent protest outside the ministry and clashed with UNMIL peacekeepers sent to contain the unrest. They claimed nonpayment of salary arrears and retirement benefits and demanded back pay, which some reportedly received while others did not. See: Ansorge and Antwi-Ansorge, “Monopoly, Legitimacy, Force.”; “President Authorizes Defense Ministry to Pay Salary Arrears to Former Soldiers,” UNMIL (media summary citing ELBS Radio and Star

Immediately following the chairman's announcement, DynCorp got to work. First, it coordinated with UNMIL to provide security during the demobilisation in case violence erupted—though the company's small armed presence would have been insufficient to put down a large armed riot. Next, the company sub-contracted a local architecture and engineering firm to custom-build a demobilisation site on the outskirts of Monrovia, which was close enough to the city to be accessible for the majority of the population yet far enough to contain a violent outbreak before it spread to the capital. DynCorp also began refurbishing the Barclay Training Centre, a former AFL base in downtown Monrovia, and would later build the larger training base in Careysburg.

DynCorp's ability to rapidly demobilise the legacy AFL was aided by circumstance since it did not have to disarm combatants or determine who was eligible for benefits, both dangerous and time-consuming issues. UNMIL's DDRR program had already disarmed but not demobilised ex-AFL soldiers, who were confined to their barracks. However, as with LURD and MODEL, it was widely believed that the AFL's best weapons remained hidden rather than surrendered to UNMIL as a hedge against future hostilities. UNMIL collected few heavy or crew-served weapons despite their prevalence during the civil war, casting a shadow of anxiety over the entire process.

Radio), June 14, 2006; Brownie J. Samukai, Jr., "A Discussion with Liberia's Defense Minister, Brownie J. Samukai, Jr." (discussion, United States Institute of Peace, Washington, DC, May 11, 2007).; "Leadership of Demobilized AFL Soldiers Assure President Sirleaf of Unwavering Support," Executive Mansion, Press Release, February 24, 2010.; Cook, *Liberia's Post-War Development*, footnote 75.

Figure 10: One of fifteen demobilisation stations with biometric capture at DynCorp's custom-built demobilisation site



The NTGL rather than DynCorp decided who was eligible for demobilisation benefits. Based on available funding, DynCorp derived a points system to distribute payment to ex-AFL fighters based on time in service and rank, which the NTGL approved and adopted. The minimum payment to help soldiers reintegrate into civil society was \$540 (about a year's salary) and the maximum over \$2,000, substantially more than the flat \$300 UNMIL offered non-government combatants in its DDRR program. Like so many other DDR programs, little was done to ensure long-term reintegration. Once individuals received their payments, they usually were offered transport to their home town and then forgotten. There was little if any serious job training, counseling or similar assistance to prevent them from relying on violence to make a living. Also, there was no separate assistance for dependents of former soldiers, aside from the 270 widows who received compensation only after vociferous and

persistent political protests to the Liberian government. But to be fair to DynCorp, it was not contracted to provide long-term assistance for former soldiers, only to demobilise them safely.

Not surprisingly many Liberians fraudulently claimed they were in the AFL and demanded payment; determining who was actually in the AFL was difficult. First, nearly all the AFL personnel records were destroyed in the war. Second, many combatants took a nom de guerre during the war: memorable warlords include General Cobra, General Mosquito, General Mosquito Spray, General Peanut-Butter (currently a senator) and General Butt Naked (currently a preacher), whose warriors fought *au naturel*. Lastly, there was widespread fraud and abuse during UNMIL's DDRR process, as later vetting investigations revealed, giving precedent to cheating the system.⁷²⁵

Owing to the above, a large re-documentation exercise was launched to ascertain who was truly in the AFL, which the NTGL led and DynCorp operationalised. The executive order established a joint Demobilisation Advisory Monitoring Committee (DAMC) to oversee the process, which did not include the firm.⁷²⁶ Initially well over 15,000 individuals claimed to be former AFL, but this list was painstakingly whittled down. UNMIL identified several hundred double dippers—Liberians who had already received benefits from UNMIL's DDRR program posing as members of LURD or MODEL.

⁷²⁵ Ansorge and Antwi-Ansorge, "Monopoly, Legitimacy, Force."

⁷²⁶ The DAMC included representatives from the Executive Mansion, Ministry of National Defence, Ministry of Finance, Central Bank of Liberia, Ministry of Information, Ministry of Planning, United States Embassy, United Nations, Economic Community of West African States, the African Union and the International Contact Group on Liberia. See: National Transitional Government of Liberia, *Executive Order No. 5*, clause 3.

These individuals were disqualified from receiving additional pay-outs. The AFL leadership also reconstructed former unit rosters drawn from fragments of surviving records and considered every claim individually, using eight criteria to validate a veteran's identity.⁷²⁷ Suspicious candidates were quizzed on life in the AFL: which unit they were in, where they served, who their commanding officers and first sergeants were. By the end of July, the NTGL produced a list of 13,500 ex-AFL members eligible for benefits, and added 270 widows later for a total of 13,770.

Concurrent to these events, DynCorp and a senior member of the Ministry of Defence co-led a planning team of eight AFL officers that reported directly to the defence minister.⁷²⁸ The team issued a military operations order that provided a demobilisation schedule for all twenty-seven units, a three-stage plan of action for the process (identity verification, registration, payment) and logistical requirements and taskings.⁷²⁹ Though successful, this hybrid team, led by a Liberian and a contractor, raises questions over where the

⁷²⁷ The criteria used to screen applicants were personal data (some fields in the database have no information); date of birth (DOB) versus date of entry (DOE) into the AFL (those with DOBs after 1973 were disqualified from joining the service, since AFL standards required rigid application of a minimum entry age of seventeen); DOE versus training base (the AFL had fixed official training bases and some of them were not operational at certain times); whether the re-documentation form was personally filled in, as required by the process (questions were raised if another person did the writing for a lettered personnel); a cross-check with DDRR list from UNMIL resulting in 'double dipping' (no double benefit, AFL personnel processed through UNMIL DDRR program are excluded from AFL demobilisation process); a cross-check with the MOD insurance benefit list (no impersonation of dead service personnel); commander certification (each unit commander was required to review and certify the accuracy and completeness of the respective unit rosters under penalty of perjury and possible loss of all benefits and exclusion from possible re-entry consideration in the new AFL); and a photo check (all re-documented personnel had photo forms; there was a facial check at time of payment).

⁷²⁸ Each senior officer was chief of the following military staff offices: G1 (personnel), G3 (operations), G4 (logistics), adjutant general, engineers, chief information officer, signal, assistant G1, and brigade element.

⁷²⁹ National Transitional Government of Liberia - Ministry of Defense, *Operation Order 001-Operation Demobilization*, 2005.

NTGL's influence ends and DynCorp's begins. The company had to manage significant portions of the process owing to the NTGL's lack of capacity, which flags concerns over who truly controlled the process (discussed below).

The NTGL and DynCorp imbued the process with dignity, which encouraged participation. After years of war rife with human rights violations, it was tempting to treat the AFL as criminals rather than soldiers. This would have been a mistake. First, not everyone in the AFL committed war crimes. Second, criminalising the process only would have alienated former AFL and deterred their cooperation, which was essential to the program. DynCorp consciously framed the demobilisation as a retirement, modelled on the US Army's own protocol, rather than a DDR pay-out to 'thugs'. Every day a unit mustered at the demobilisation site to be honoured with a formal ceremony replete with protocol, the AFL band and a congratulatory speech by the Minister of Defence or similar dignitary. Individuals then began the demobilisation process, which verified and logged their identity, took an identification picture and electronically fingerprinted them (see Figure 10). Following this, ex-soldiers received a voucher for payment at a Monrovia bank as well as a demobilisation certificate and a card indicating that they were either 'demobilized' or 'honourably retired', for those whose service began before Taylor's take-over. These documents were intended to provide a measure of closure and status to ex-combatants, but also, as official

government papers, they represented the state's reconstitution after a long absence.

Cynics might argue this was merely political theatre yet, to date, it was successful: the legacy military remains peacefully demobilized. Moreover, it was done safely and efficiently. By treating ex-combatants as soldiers rather than criminals, in four months and at a cost of only \$15 million, one of the more notorious armies in Africa was completely and safely demobilised, a rare event in African history.⁷³⁰ DynCorp's ability to demobilise an army exemplifies what the private military industry can do and perhaps where it is heading within the new neomedieval order. In the new market for force, like the old, dismantling armed challengers is the first step to gaining a monopoly of force, whether it is for a client like Liberia—or the PMC's own interests.

Raising an Army in Five Steps

In the medieval era, the *condottieri* were only as good as the army they could muster and future PMCs will be judged no differently. DynCorp's experience raising a small army for Liberia shows how PMCs today can build a military, and because DynCorp accomplished this with minimal external assistance—other than payment from the United States—it stands to reason that the company could do so again for another client, including itself.⁷³¹ Other PMCs possess the same capacity to generate armed forces. Raising an army is

⁷³⁰ The \$15 million cost number comes from: Cook, *Liberia's Post-War Development*, footnote 75.

⁷³¹ This thesis in no way implies that DynCorp International desired to raise an army for its own uses.

obviously complex, and a full analysis of how it is done is beyond the scope of this thesis. Instead, below is an overview of five key elements of army building, all managed by DynCorp in Liberia: public sensitisation, recruiting, vetting, training and equipping, and formulating strategy.

Step 1: Alert the Public

The first step in creating a new force—unless it is clandestine—is to alert the public. In Liberia this was challenging owing to the grim legacy of the former AFL in the war. Many Liberians and even UNMIL’s Jacques Klein did not welcome this development and thought the country ought to adopt the Costa Rican model of a robust national police force in lieu of a military. However, ultimately it was decided during the Accra peace accords that Liberia needed a military owing to the dangerous geopolitics of West Africa. To help prepare the populace for this, DynCorp began planning a public sensitisation program in early 2005.

The major obstacle of any foreign-led messaging campaign are cultural and language barriers, and Liberia has sixteen different tribes with their own customs and even languages. The widely spoken Liberian English is not easily recognisable to international English speakers, as it is a creole of Kru pidgin English and nineteenth-century African American vernacular English.⁷³² Moreover, the fourteen-year dearth of education due to the civil war and resultant 75 per cent illiteracy rate limited much communications to oral or

⁷³² For example, instead of saying ‘he bothers me’, one would say ‘he vexes me’, delivered in heavy patois. M. Paul Lewis, ed., *Ethnologue: Languages of the World*, 16th ed. (Dallas, TX: SIL International, 2009).

pictorial transmission. Owing to these challenges, DynCorp sought to partner with a local communications firm and employed Liberians to craft effective messages that would resonate with indigenous audiences. DynCorp's role was confined mostly to logistical support and coordination with international community representatives in Liberia.

The communications strategy was a combined sensitisation and recruitment campaign targeting opinion leaders, civil society and the AFL recruitment pool. It consisted of several parallel efforts. The first was a series of workshops for senior AFL officers, cabinet members, soldiers to be demobilised, the media and civil society groups. The second was a broader outreach campaign to the public as a whole and involved members of the government and AFL SSR program giving interviews to the media, debating on radio talk shows, staging rallies featuring other senior members of the government (see Figure 11), producing radio dramas featuring the AFL, placing ads in newspapers, displaying large AFL billboards and murals (see Figure 12) and doing recruiting tours in Liberia's hinterlands (see Figure 13). DynCorp even commissioned AFL comic books titled *Jackie's Adventure* and *Liberia's New Armed Forces* for free distribution (see Figure 14). The company also set up two information booths in downtown Monrovia staffed by Liberians to answer any questions passers-by had regarding the AFL SSR process or how to enlist.

Figure 11: The Liberian Minister of National Defence Brownie Samukai at a rally for the AFL, coordinated by DynCorp, in Monrovia, 2006



Figure 12: The author standing in front of an AFL billboard alerting the public to the new Armed Forces of Liberia



Figure 13: Part of a DynCorp recruiting convoy into the hinterlands of Liberia



Figure 14: DynCorp commissioned comic books to reach low-literacy audiences aimed at sharing information regarding the new AFL as well as encourage recruitment, especially among women in this case





Step 2: Recruiting

Recruitment for the new AFL began on 18 January 2006 at the Barclay Training Center (BTC) in downtown Monrovia and attracted a great deal of attention, with a line wrapping nearly around the block (see Figure 15). Large groups of applicants even camped in front of the BTC for several nights before the opening day, and individuals travelled from outlying counties to stand for the chance to apply. In the first two months alone DynCorp processed 4,000 applications.

Most of the recruiting took place at the BTC because a third of the population was encamped at Monrovia, making it fertile enlisting ground, and BTC also had the infrastructure to support the operation. Neither the Liberian government nor the State Department desired an all-Monrovia military, but

access to Liberia's interior was very limited. The few roads and bridges that existed were in poor shape and some were impassable during the rainy season. To overcome this, DynCorp conducted large recruiting expeditions with the precision and robustness of a military operation. Each so-called forward recruiting convoy consisted of some dozen or so trucks, fifty staff and all necessary equipment, including spare vehicles. They would deploy days and even weeks at a time to all fourteen counties in Liberia and could process about 120 applicants a day. Like a military column, these forward recruitment operations consisted of several parts. Ahead of the main convoy, a reconnaissance team scouted the routes, conducted liaisons with relevant UN and Liberian authorities and identified recruitment sites. Next, a public affairs team made radio announcements and distributed posters and comic books. Then the forward recruiting team's main body arrived, making announcements over truck-mounted speakers while driving through population centres. In the first six months of 2006 DynCorp launched twenty-eight recruiting expeditions.

Figure 15: The first day of recruiting attracted a long line of volunteers



The final phase of the recruitment campaign was, of course, the recruitment itself. DynCorp devised a four-stage recruitment process—enlistment, a literacy aptitude test, a physical fitness test and a medical exam—to select the best candidates from the recruitment pool. The stages were sequential: applicants had to pass minimum acceptability standards before advancing to the next stage. To save money, DynCorp conducted less expensive tests first, when the applicant pool was large, and more costly tests last, when the applicant pool was smallest.

The first stage of recruitment was enlistment. Applicants had to be Liberian citizens between the age of eighteen and thirty-five, functionally literate at a twelfth grade level for enlisted soldiers and at a college graduate level for officers, physically fit and healthy, without a criminal record and free of allegations of human rights violations, crimes against humanity or war

crimes. Applicants showed up at a recruitment station and were searched for weapons, then asked to read a few simple sentences to ensure basic literacy (a fuller literacy exam ensued later); 11.5 per cent failed this and were escorted off the premises. Applicants who could read were briefed on the AFL and the recruitment process. If the individual wished to volunteer to serve, they filed an enlistment application, received an AFL recruitment identity card with their picture and unique tracking number and were given a report date for the second stage.

The second stage was assessing functional literacy. Soldiers had to be able to read and write orders, reports, maps and other communications, a significant recruiting challenge in a country with 75 per cent illiteracy. On account of this DynCorp suggested a minimum sixth-grade reading level but the Liberian government insisted on a twelfth-grade level. Instead of relying on disparate and potentially fraudulent diplomas, DynCorp asked the West African Examinations Council (WAEC), a regional organisation, to create an aptitude test that the company could administer. WAEC is a not-for-profit examination board that has administered standardised tests for sixth and twelfth graders throughout the region since 1952. WAEC created a ninety-minute aptitude test consisting of thirty multiple-choice questions and one essay to test for educational equivalency. If the applicant passed the aptitude test they were invited to return the next day for a physical fitness test and medical exam; if the applicant failed the aptitude test they were given one more

chance to retake the test in twenty-eight days' time. Female candidates tended to score higher than males, and unlike in a developed country, younger Liberians on average did worse than older applicants, owing to the lack of schooling during the fourteen-year civil war. Fifty-eight per cent of applicants passed this stage.

The third stage assessed physical aptitude. Obviously strong physical prowess is a prerequisite for soldiering and DynCorp modified the US Army's physical fitness test to assess it, because the test required no special equipment or venue. To pass the test, applicants had to complete a minimum number of push-ups and sit-ups in a two-minute time frame and run 1.5 miles in less than a specified time, depending on age and gender. Only 7.6 per cent of applicants failed the fitness test and could retest in twenty-eight days. Of those who failed, 58 per cent failed to do the minimum required push-ups, 36 per cent failed to complete the minimum required sit-ups, and 6 per cent did not finish the 1.5 mile run in the maximum time allotted. Not surprisingly, applicants older than thirty-four had a higher failure rate than younger candidates, although the rate never exceeded 20 per cent for any age group. Forty-eight per cent of applicants passed this stage.

Next, applicants underwent a basic medical examination consisting of a general check-up, a drugs screen, a tuberculosis test, and a HIV-AIDS test. Unlike the other tests, applicants who failed this exam were denied entry into the AFL unless it was for a temporary illness or the need of corrective lenses,

in which case the applicant could return for a reexamination. Surprisingly, only 11.9 per cent failed the medical examination during the first six months, mostly due to illegal drug use. Liberia has a relatively high HIV-AIDS rate, but the recruitment campaign's active dissemination of minimum entry standards may have deterred those afflicted from volunteering. Forty-six per cent of applicants passed this stage, meaning that only 40 per cent of the original applicant pool remained.

Step 3: Vetting

Vetting is perhaps the most important yet inexplicably overlooked element of raising security forces. Recruiting soldiers or policemen without proper background checks would be unthinkable in the United States and the United Kingdom, yet it has happened routinely in Iraq, Afghanistan and other conflict affected states, which arguably need professional security services the most. The lack of rigorous vetting allows terrorists and criminals to easily infiltrate security forces and commit crimes in uniform, discrediting and corrupting the force while terrorizing the populace. On 22 February 2006, insurgents posing as Iraqi police destroyed the Golden Mosque in Samarra, one of Iraq's holiest Shi'ite shrines, re-igniting longstanding violence between Sunni and Shia in Iraq. This problem became so widespread in the Iraqi national police that in 2007 the US Congress appointed a high-level independent commission headed by retired general James Jones, the former NATO commander, to assess the situation. The commission's recommendation was grim: 'We should start over',

meaning the SSR of the Iraqi police. But as an earlier inspector general report on the same topic observed, a corrupt security force that has lost public trust and legitimacy is ‘a problem not easily undone’.⁷³³

One reason vetting is ignored is because it is hard. How does one conduct background checks in a failed state where there are few if any records kept? Background investigations normally rely on a plethora of records: criminal, commercial, financial, educational and public. In a post-conflict failed state, such records may not have survived the war, if they existed in the first place; they also may be incomplete or not credible. In Liberia, what records remained were scant, incomplete and generally untrustworthy, since forgery and identity theft was common. The AFL’s personnel or G-1 Section of the Ministry of Defence had lost most of its filing systems, including the 201 files of its Military Personnel Record Jacket, which had documents on each soldier. Compounding the issue was the sheer number of problematic candidates, where many people were perpetrators, victims or both of violence during the war. The lack of tools plus large volume of troubled backgrounds made human rights vetting a daunting challenge.

Vetting was also dangerous. Many did not welcome unearthing the bloody past, especially violent individuals under investigation with something to hide. If the vetting process failed to safeguard the identities of victims and witnesses who helped identify perpetrators, then those victims or SSR staff

⁷³³ U.S. Department of State and Department of Defense, *Interagency Assessment of Iraq Police Training: Joint Inspector General Report* (Washington, DC, 2005), 22.

could be intimidated, coerced and even killed in reprisal. If the vetting process accidentally admitted a war criminal, it would discredit all vetted individuals and perhaps even provoke a violent backlash. Wrongful denunciations made against innocent individuals could generate antagonism in the community and discredit the SSR program as a whole, deterring people from enlisting in the new army and defeating the purpose of the SSR effort.

DynCorp thus created an entirely novel approach to human rights vetting in post-conflict countries that combined investigative techniques, international best practices and human rights norms to judge a candidate's character and capacity for a position of trust and to identify potential risks for security reasons. The process utilised three methods: background checks, records checks and public vetting.

Once an applicant's file was passed to the vetting office, it was assigned to a background investigator, who worked closely with Liberian colleagues. The purpose was to establish the overall truthfulness of the applicants' claims about themselves and uncover evidence of past wrongdoing that would disqualify them from serving. During enlistment, applicants fill out a detailed questionnaire about their backgrounds, which includes their age, schooling, work history, claimed special skills, a strip-map to their home (there are few street signs in war-ravaged Liberia) and any supporting evidence, such as certificates or diplomas. An investigator then verified the accuracy of this information; fraudulent claims and documents filed in the applications account

for the majority of candidate disqualifications during the vetting process.

The investigator also interviewed people on conditions of anonymity who know the candidate well for character references, which included the candidate's references, neighbours, employers, co-workers, relatives, municipal authorities, teachers, community leaders and local religious leaders (see Figure 16). To ensure interviews were controlled, confidential and conducive to maximum disclosure, investigators tried to conduct them in private locations and use open-ended questions (e.g., 'tell me about this man'). Owing to the sensitive nature of investigating the past, local Liberian staff were vital as cultural interpreters and almost always accompanied the investigator. Without their support, competent investigation would not have been possible.

Simultaneously, the vetting team ran a records check on the applicant, pooling what records were available and prioritising them by reliability and completeness. In its records search, DynCorp reached out to the full pantheon of neomedieval actors in Liberia: the government of Liberia, UNMIL and other international organisations as well as international and local NGOs.⁷³⁴ WEAC maintained some of the best identity records in the country, with

⁷³⁴ DynCorp approached several organisations for vetting purposes. The government of Liberia, such that it was, provided limited information through its Ministry of Justice and Liberian National Police (for criminal records); Ministry of Education (for verification of education level and identity); Ministry of Health (for verification of date and place of birth, citizenship and identity); Ministry of Defence (for prior record of service in the AFL, re-documentation exercise, surviving records and demobilisation exercise); and Ministry of Gender (for rape and other gender-related allegations). The United Nations and UNMIL's various agencies provided records regarding identity, human rights violation allegations, war crimes, child soldiers, witness testimony from IDP camps, criminal activity and combatant demobilization lists. NGOs proved an excellent source on human rights violation allegations, and included international organisations such as the ICRC, ICG, IRC and WEAC. Local NGOs also provided excellent information on human rights violation allegations and include the National Human Rights Centre of Liberia, National Human Rights Commission, National Association of Female Lawyers, Liberia National Law Enforcement Association, Methodists Human Rights Commission and Catholic Justice and Peace Commission.

thousands of Liberians' identities plus photographs on file. Despite the records' incompleteness, they helped investigators verify facts and spot forged documents and falsehoods.

Figure 16: A DynCorp vetting team comprising one international and one Liberian expert conducting background checks on an AFL applicant in the field



DynCorp also used public vetting, a direct appeal to the population to solicit local knowledge of candidates' past wrongdoings. The candidates' pictures, names and hometowns were publicised nationally to afford witnesses and victims an opportunity to identify undesirable candidates. Candidates were briefed of this procedure during enlistment and signed a release form authorising DynCorp to broadcast their information. The company used posters, newspaper inserts, radio and facebook to disseminate the information and invited the public to anonymously provide feedback via telephone hotlines, an email address or simply walking into an enlistment centre.

Additionally, some members of the public with special knowledge of past crimes, such as solicitors, academic researchers, civil society groups and journalists, were at times asked to submit relevant information concerning the human rights records of persons named on the list. Not surprisingly, public vetting in Liberia attracted many false leads and fraudulent claims aimed at defaming candidates for unrelated reasons, but in a country with few public records, tapping the collective memory of the populace was an important vetting method.

Applicants could be disqualified on substantial or procedural grounds. Substantial reasons include credible evidence of wrongdoing, such as past human rights violations, whereas procedural grounds referred to candidates' deleterious behaviour during the process itself. Since the vetting was to determine an applicant's suitability for military service rather than establishing guilt or innocence of crimes, the process used a lower standard of proof than would courts of law, disqualifying candidates based on a preponderance of evidence or even a balance of probability suggesting that a candidate was more likely than not culpable in a crime.

To help standardise the evaluation procedure for public vetting, DynCorp created a matrix that explained and ranked the trustworthiness of witnesses in four categories: identity, character, education and professional experience. For each of these categories the company gave guidelines regarding the type of person who was most and least trustworthy. Strongly credible

sources included people who knew the candidate well, such as a close relative or a friend who knew the candidate for fifteen years or more (e.g., spouse, parent, old friend) or people in positions of authority over the individual (e.g., high school principal, church pastor, boss). Weak witnesses only vaguely knew the candidate; in such cases the investigator needed to substantiate the charge with at least two or three unrelated witnesses. Allegations with few credible witnesses were generally deemed not probable and did not disqualify the applicant.

In addition to allegations of war crimes or human rights violations, histories of criminal behaviour, poor reputations in the community, mental instability and family violence, candidates could be rejected for procedural reasons that cast negative light on their suitability for soldiering. The top reasons for procedural disqualification included failure to reveal pertinent information during the procedure; evidence of threats, intimidation or coercion of victims, references or witnesses; lack of cooperation with or support for the vetting process; or aggressive, violent, insulting or disrespectful behaviour toward staff. In the first six months of recruiting and vetting, 1,080 candidates were investigated; of these 335 were accepted and 205 were rejected, almost all for procedural rather than substantive reasons. This may be because the recruiting campaign stressed the need for candidates free of criminal or human rights violations in their background and thus the applicant pool was self-selecting. It may also be because procedural problems were easier

to unearthing than substantive ones.

Once a candidate passed all recruiting and vetting requirements, DynCorp scored their merit based on how well they did in each category and then passed the candidate's file to a joint personnel board (JPB) for final approval. The JPB reviewed the applicant's file, test results, vetting findings and then voted on whether to admit the candidate into the new AFL as a recruit. Recruits spent the first year of their service on probation, during which their performances were evaluated. At the end of this first year, the JPB convened to decide whether to retain or dismiss the soldier. A simple majority won; among those voting were a member of the Liberian government, Liberian civil society (appointed by the Minister of Defence) and a United States embassy official. DynCorp had no vote in who was admitted into the new AFL it was tasked to train.

Step 4: Training and Equipping

Training and equipping the force is the simplest part of building an army. Although military training varies from place to place, the principles involved in transforming civilians into soldiers are so timeless that they are practically clichés: intense physical conditioning and psychological hardening; breaking down individuals' egos and building them back up as a unit; bonding through mutual suffering; the more the recruits sweat in peace the less they bleed in war; repetitive drills until soldiers can literally accomplish military tasks in their sleep. The foundational document of US Army training—and now AFL

training—is US Army Regulation 350–1: Army Training and Leader Development, otherwise known as AR 350-1.⁷³⁵ DynCorp adopted the US Army’s initial entry training (IET) program for the AFL’s basic training, modifying it for the needs of Liberia, and hired only ex-US Army and Marine drill sergeants (see Figure 17) to transform the recruits into soldiers.

Grounded in AR 350-1, DynCorp planned four training courses for the AFL. Basic training—that is, IET—initially lasted fifteen weeks but later was reduced due to lack of funding. Following this recruits would undergo advanced individual training (AIT), which usually lasted six weeks and provided specialised training to soldiers based on their military occupation speciality (MOS), such as infantry, medic or cook. Every member of the AFL undertook IET and AIT, but soldiers selected for leadership underwent additional training. Those selected as non-commissioned officers (NCOs, also known as sergeants) attended a basic non-commissioned officer’s course (BNCOC, pronounced *bee-knock*) for four weeks, and those selected as officers attended an officer basic course (OBC) for six weeks. Rather than examine each of these courses in depth, it may prove more useful to analyse one course, basic training, because it was the most widely attended and illustrates how DynCorp adapted US military training to the AFL’s unique needs.

⁷³⁵ U.S. Army, *Regulation 350-1: Army Training and Leader Development*, 2007.

Figure 17: AFL Basic Training with a DynCorp Drill Sergeant



The recruiting campaign was fairly effective, given the high enlistment rate in the first six months of recruiting. DynCorp received 4,170 applicants in the first six months of recruiting. The average age was 29 years and there was a fairly even dispersion of tribal group; no single group accounted for more than 12 per cent of the applicant pool, although some groups represented less than 1 per cent, such as Sarpo, Bella and Dei.⁷³⁶ No one identified as Americo-Liberian or Congo, though .8 per cent did not select a group on the application form: the enlistment application asks individuals to identify their tribe rather than ethnic group, and neither Americo-Liberians nor Congo regard themselves as a tribe.

Two-thirds of all applicants resided in the county of Montserrado, where Monrovia is located, though because the war drove most of Liberia's

⁷³⁶ The tribal or ethnic groups are: Kpelleh, Bassa, Gio, Kru, Grebo, Mano, Krahn, Gola, Gbandi, Loma, Kissi, Vai, Dei, Bella, Mandingo, Mende and Sarpo.

population to its capital, this should not be interpreted as reflecting applicants' counties of origin. Most candidates were born in Montserrado (22 per cent), Lofa (16 per cent) or Nimba (14 per cent), while the fewest came from River Gee (2 per cent), Gbarpolu (1 per cent) and Rivercess (1 per cent). In general, the applicants were representative of the population, consistent with the State Department's and Liberian government's desire for an ethnically balanced military.

Curiously, only 772 applicants, or 18.5 per cent of the applicant pool, claimed former military experience, either in the AFL or a rebel group. No doubt some withheld this information when applying, especially during the early days of recruitment when the SSR program's reputation was still inchoate. Over half of these applicants claimed they served in the AFL, with the remainder more or less evenly divided among former LURD, MODEL, militia and the National Patriotic Front of Liberia, a rebel group led by Taylor during the First Liberian Civil War from 1989 to 1996. A small number of candidates claimed they served in special units created by Taylor towards the end of the war that terrorised the population and enemy alike, such as the Special Operations Division and Special Secret Service. No applicant was denied entry into the new AFL because they were part of a notorious unit; candidates were only rejected when background checks revealed participation in human rights violations or crimes. Applicants with former military

experience scored substantially lower on vetting benchmarks than applicants without former military experience.

Both the Liberian government and the State Department had asked DynCorp to emphasise female recruitment, and in 2006 Sirleaf-Johnson astonishingly declared that 20 per cent of all soldiers in the AFL should be women, perhaps the highest percentage of women in any military.⁷³⁷ DynCorp correspondingly held women-only recruitment days, featured women soldiers in comics and billboards and hired female veterans of the old AFL's Women Auxiliary Corps to staff the AFL information booth in downtown Monrovia. Despite these efforts, only 130 of the 4,170 applicants were female, constituting 3.2 per cent of the applicant pool. When asked, one woman said she did not want to join the military because it would make her 'muscly' and 'no man wants a woman muscly'. When it was pointed out to her that she—and many women in Liberia—walked several miles a day with a few gallons of water or a sack of rice balanced on their head yet remained 'unmuscly', she simply grinned and left.⁷³⁸

In terms of equipping the recruits, conflict-zone logistics is the private military industry's forte, as contractors manage the majority of DOD's logistics

⁷³⁷ However, this directive probably served political rather than operational purposes. By comparison, women comprise 14.5 per cent of the US military, 13 per cent of the Australian Defence Force, and 9.6 per cent of the United Kingdom's armed forces. See: "Statistics on Women in the [US] Military, Women In Military Service For America Memorial Foundation, September 30, 2010, accessed July 1, 2011, <http://www.womensmemorial.org/Press/stats.html>.; Australian Defence Force, *2005–06 Defence Annual Report* (Canberra, 2006), 281.; U.K. Ministry of Defence, "Table 3a - Strength of UK Regular Forces By Sex," accessed July 1, 2011, <http://www.dasa.mod.uk/applications/newWeb/www/apps/publications/pubViewFile.php?content=170.131&date=2011-05-12&type=html&PublishTime=09:30:00>.

⁷³⁸ Author interview, Monrovia, Liberia, June 5, 2006.

requirements around the world. DynCorp's team of ex-military and civilian logisticians at the company's offices in Dallas equipped the AFL through the global supply chain. Since Liberia was under a strict UN arms embargo at the time, the State Department and DynCorp worked together closely in 2006 to purchase small arms in Eastern Europe and fly the weapons to Liberia via chartered cargo plane, landing unannounced in the dead of night to minimise ambush by clandestine rebel groups. The State Department arranged an exemption to the UN arms embargo, over-flight permissions, end user certificates and money for the operation. DynCorp found the supplier, transacted the deal and moved the weapons from Eastern Europe to Liberia. The deal was the first legal arms transaction to Liberia in nearly two decades.

Step 5: Strategy and Administration

As all good *condottieri* know, it takes more than soldiers and weapons to make an army. Owing to this DynCorp was also contracted to demobilise and rebuild the Ministry of Defence to develop defence strategy and manage the AFL's human resources, public affairs, resource management, ombudsman, coordination with other ministries and other vital functions. Because ministries of defence in fragile states are often bloated affairs, the State Department directed the company to create a lean organisation of about 100 people, almost all civilians and led by a civilian minister. Once AFL recruiting and training was underway, DynCorp undertook the creation of a small military civil service.

Rebuilding a ministry is far from a facile affair. Public sector militaries

like the US Army generally do not conduct institutional reform, as it is not seen as a core military function. Instead, development agencies such as USAID or the World Bank typically assist host nations in the work. However, development organisations are often prohibited from working with military institutions or shun it, and consequently transforming a ministry of defence in particular remains largely unmapped territory.⁷³⁹ This did not deter DynCorp, which sought out relevant experts and lured them to Liberia though competitive pay packages in a manner no state bureaucracy can afford or has the flexibility to accommodate. Because practice was ahead of theory in 2005, many of the experts were retired US military officers and defence attachés with substantial experience working with African ministries of defence. Within months the firm formed a twenty-person team that devised a seventeen-week civil servant training course divided into ten functional areas, followed by sixteen weeks of on-the-job mentorship.⁷⁴⁰ The team also would help the fledgling Liberian ministry draft all plans, policies and procedures for the AFL—a major task—as well as assist in formulating military strategy. Unfortunately, this plan never came to fruition due to contractual pay problems (discussed below) so it is impossible to assess its effectiveness, although it could serve as a useful model for future efforts. Today the Ministry

⁷³⁹ For more on the challenges of ministerial transformation in SSR, see: Elizabeth Panarelli, *The Role of the Ministerial Advisor in Security Sector Reform: Navigating Institutional Terrains* (Washington, DC: United States Institute of Peace, 2009); Robert M. Perito, *The Interior Ministry's Role in Security Sector Reform* (Washington, DC: United States Institute of Peace, 2009); Susanna Bearne, *National Security Decision-Making Structures and Security Sector Reform* (Cambridge: Rand Europe, 2006).

⁷⁴⁰ DynCorp identified ten functional areas for the Liberian MOD: operations; policy and plans; personnel and administration; resource management, fiscal acquisition/logistic, facilities; legal counsel; comptroller and budget planning; inspector general; and protocol and office administration.

of Defence has mostly learned by doing, a less than ideal approach to ministerial development.

By 2010 Liberia had a small fledgling army. It remains a qualified success compared to efforts in Afghanistan, Iraq, East Timor, Côte d'Ivoire and elsewhere where new security forces degenerated into sectarian killing machines or coup d'état makers. What makes Liberia unique is a corporation raised its army, revealing some of the good, bad and ugly implications of today's private military industry.

The Good

The Liberia program is unique even from the programs in Iraq and Afghanistan in that it was entirely outsourced to the private sector. This was not an entirely a bad thing, contrary to some of the dire warnings from sceptics that outsourcing *any* military function is undesirable. DynCorp's profit motive drove it to find innovative, efficient and effective solutions to thorny security problems, like the *condottieri* before them, and this accounts for some of Liberia's success today.

Innovation: an Engine for Success

Just as the Swiss Companies perfected pike warfare and Wallenstein developed unique methods to rapidly generate regiments, PMCs today also innovate in the realm of war. Such ingenuity was all the more important in Liberia because when DynCorp was hired to rebuild the AFL in 2004, there were no books,

theory, best practices, compendia of lessons learned or practitioners with significant experience on how to demobilise and rebuild an army. Scholarship was equally unhelpful, as it has always lagged behind practice in DDR and SSR. Owing to this, DynCorp's team invented new solutions to its specific DDR and SSR problems, resulting in a sui generis program that could serve as an imperfect yet necessary model for future DDR and SSR programs, and it did so in a post-conflict setting, one of the most difficult operating environments in the world.⁷⁴¹

One example of innovation is DynCorp's novel approach to human rights vetting in post-conflict countries, which the International Crisis Group says is 'a notable success—the best, several experts said, they had witnessed anywhere in the world'.⁷⁴² To date, no public military or government has developed a systematic method for vetting in fragile states, which accounts for difficulties in Iraq and Afghanistan, for instance, where insurgents easily infiltrate the security forces and commit crimes in uniform. To avoid spoilers subverting the AFL, DynCorp invested in developing a new vetting model and did so more efficiently than the United States' own military, taking just a few

⁷⁴¹ Failed states and conflict-affected areas are settings of extreme poverty, lacking infrastructure, law and security. Simply moving across the country can become a daunting expedition involving robust security convoys, careful route reconnaissance, resupply points, spare vehicles, air medical evacuation support, river-crossing capabilities, disciplined staff and significant contingency planning. Other factors that affect operations include institutionalized corruption, exotic diseases, prevalent traffic accidents, lack of logistical resupply, wild animals and high rates of crime. Even amenities such as potable water, electricity and shelter cannot be assumed. Staff must be prepared for possible lack of cooperation from authorities, novelty of the procedure for the population, absence of precedents and cultural misunderstandings that could be disastrous. In light of this backdrop, DynCorp's achievements are all the more notable.

⁷⁴² International Crisis Group, Liberia: Uneven Progress in Security Sector Reform. For more information on this vetting technique, see: Sean McFate, "The Art and Aggravation of Vetting in Post-Conflict Environments," *Military Review* (July/August 2007): 79-97.

months with a handful of experts. By contrast, the US military typically requires years to develop new doctrine, involving scores of individuals and institutions.⁷⁴³ The US military still does not rigorously vet individuals who wish to serve in the Afghan, Iraq or similar security forces, despite its centrality to effective SSR. Contrary to industry cynics, this also implies that DynCorp more scrupulously obeyed United States law—which forbids military assistance to foreign armies that violate human rights with impunity—than the United States’ own military since the firm investigated and culled candidates with potential human rights violations in their past.⁷⁴⁴

Key to the success of the vetting program was guaranteeing the anonymity of people who gave information about applicants. Failure to protect the identities of witnesses and victims of crimes invited reprisals and even death: with a feeble judiciary and scant law enforcement, violence was never far beneath the surface. However, this was controversial because it meant that vetting must remain absolutely unconnected to instruments of post-conflict justice, such as a truth commission or a war crimes tribunal.

⁷⁴³ For example, each United States military service has its own center for doctrine creation: the US Army Combined Arms Center at Fort Leavenworth, Kansas; US Marine Corps Combat Development Command at Quantico, Virginia; US Air Force LeMay Center for Doctrine Development & Education at Maxwell Air Force Base, Alabama; the US Navy Warfare Development Command at Naval Station Norfolk, Virginia; plus multi-service centers for joint doctrine creation and federally funded research and development centers, funded by DOD, to research doctrine and other topics. Owing to this large bureaucracy and various concerns, doctrinal development in the United States military is a sedate affair.

⁷⁴⁴ U.S. law restricts the provision of funds to units of foreign security forces when the State Department has credible evidence that the unit has committed gross violations of human rights. Commonly referred to as the Leahy Law, after its principal sponsor Senator Patrick Leahy, this restriction first appeared in the 1997 Foreign Operations Export Financing and related appropriations act (P.L. 104-208) and only applied to funds appropriated to the State Department’s international narcotics control program. In 1998, Congress broadened the law to apply to all funds appropriated under the 1998 Foreign Operations Export Financing and related appropriations act (P.L. 105-118). In 1999, a similar provision appeared in the U.S. Department of Defense (DOD) appropriations act (P.L. 105-262), which applied to funds appropriated under that act. The two provisions have appeared each year since in the annual Foreign Operations appropriations act and the DOD appropriations act, respectively.

This became an issue in the summer of 2006 when Liberia's nascent truth and reconciliation commission (TRC) demanded all of DynCorp's vetting records for transitional justice purposes. By this time, DynCorp had amassed one of the most complete sets of records on individuals in the country, especially regarding ex-combatants. Causing controversy within UNMIL, DynCorp refused to hand over its records, since it would reveal the identities of witnesses as well as vetting sources and methods. If the TRC were to use the vetting records as evidence, making them public in the process or leaking them by accident, it would invite reprisals against the witnesses and also compromise the AFL SSR program, since no one would volunteer to join if they thought it would land them in front of the TRC.

Clearly, it is desirable that potential perpetrators of violence are brought before the TRC but sometimes in volatile situations like post-conflict Liberia the needs of transitional justice and security are at odds with each other and leaders must choose between the two. The real tragedy is that the choice must be made at all, as Liberians deserve both. At the time the immediate needs of security outweighed the need for transitional justice, and as a PMC it was easier for DynCorp to refuse the TRC than the United States government, which does not wish to be publically portrayed as retarding post-conflict justice, even when it is at times necessary. This is an instance when plausible deniability afforded by private companies serves the employer's interests.

Now that the SSR program is complete, the Liberian government

could choose to release the vetting records. Such an action could prove an important confidence building measure for the public and the AFL's final step in become a fully fledged transparent army governed by civilian authorities and accountable to the rule of law. It would help dispel mistrust that the records are being concealed to protect the guilty and that this AFL was truly 'new', removing the taint of the civil war once and for all.

A second example of innovation is DynCorp's early embrace of human security in its approach to SSR, and it is fitting that a PMC should reject the Westphalian state-centric 'national security' model. After its initial assessment of Liberia's defence sector in May 2004, the company had judged that the greatest risks to Liberian security were not strong neighbouring states with powerful armies threatening invasions, but rather violent street crime, criminal militias, disease and poverty, armed insurrection, food insecurity, lack of access to justice and political representation, terrorism and a dearth of the basic necessities of life—all internally driven conditions arising from failures of development. Based on this assessment, DynCorp believed Liberians (and the State Department) would judge the AFL's success by its ability to secure development rather than repel invaders.

In a sign of the neomedieval times, DynCorp thus de-emphasised the idea of defending national borders with a massive military and prioritised securing development as the unifying concept behind the new AFL. The State Department and the Liberian government agreed with the company's

conceptualisation of the AFL, and in 2006 DynCorp staff assisted the minister of defence in drafting a national defence strategy (NDS) white paper based on human security, making Liberia one of the first countries to try to operationalise human security in its military. The first sentence of the draft reads: ‘There can be no development without adequate security, nor can security be maintained without development and the benefits it promises for our population’.⁷⁴⁵ From there, the strategy explained the relationship between security and development in the context of Liberia, identified Liberia’s core security interests in light of development and outlined the principles that informed AFL SSR. Beyond this the strategy remains vague and not fully operational, perhaps serving best as an inchoate model for future endeavours.⁷⁴⁶ However, this does not diminish the fact that a PMC advanced new military strategic thought and also expressed concern for the welfare of civilians, indicating that the privatization of the military does not necessarily infer immoral mercenaries.

A third example of innovation is basic training. Early planners at DynCorp believed that after fourteen years of civil war most Liberians knew

⁷⁴⁵ Government Of Liberia, *Liberian National Defense Strategy (Draft)*.

⁷⁴⁶ The draft 2006 Liberian National Defence Strategy (NDS) did not fully explain how the AFL would secure development beyond conventional military strategy and natural disaster response. Tasks that might aid development are left vague, such as the military’s role in domestic law enforcement, public works, medical treatment for the population and other exercises of soft power. Moreover, it remains unclear how operational human security truly is. How exactly should a military guarantee ‘freedom from fear’ and ‘freedom from want’, a twin mandate of human security? (See the 1994 UNDP report that popularised the human security concept, and borrows these phrases from US President Franklin D. Roosevelt’s famous Four Freedoms speech of 1941, in which freedom from want is characterised as the third and freedom from fear the fourth fundamental and universal freedom. United Nations Development Program, *Human Development Report 1994*, 3. Ultimately, the NDS transformed into a more conventional and Westphalian approach to meet the political demands of the Liberian government and satisfy large state-centric donors like the UN and US.

how to fire an AK-47 but did not know when or at what. Thus, the original basic training curriculum and first iteration reduced the number of hours AFL recruits spent on the range and added three weeks' worth of civics classes, which taught the laws of war, ethics and the like. The curriculum was designed in partnership with Liberian lawyers, historians and educators, as well as DynCorp staff with backgrounds in international public law and military training. The 120 hours of civics instruction dwarfed all other training, with basic rifle marksmanship (BRM) coming in a distant second at under fifty hours. The firm also partnered with international NGOs such as the International Committee of the Red Cross (ICRC) to deliver eight hours of instruction on international humanitarian law and human rights. At the time, the volume of civics instruction was unprecedented in modern militaries, but few modern militaries face the challenges of the AFL.

Additionally, the civics instruction addressed vital concerns of the AFL such as federalism. As in most neomedieval areas, people in Liberia often identified first with their tribe and second with their state, which had corrupted the national military. As mentioned above, Doe had replaced much of the AFL leadership with members of his Krahn tribe, turning the military into a sectarian war machine in the 1980s. To avoid this in the future, the Liberian government and State Department demanded DynCorp create an AFL with balanced ethnic representation in the ranks and also a strong national identity that superseded tribal loyalty. To answer its client's demands, DynCorp

dedicated significant time in the civics section to Liberian history, loyalty to the constitution, organisation of the Liberian government, the civil-military relationship, the rule of law and other topics that imbued a national consciousness and duty to state above all else.⁷⁴⁷ Designed and often delivered by Liberian professional educators, this curriculum aspired to engender respect for federalism within the ranks.

Another key challenge facing the AFL was literacy. Military leaders and ideally the entire force would be literate. But Liberia's high illiteracy rate, combined with Taylor's denial of education to his tribal enemies during the war, meant that some ethnic groups were less literate than others. This created a conundrum, since the State Department gave DynCorp the dual mandate of a literate and ethnically balanced military. To overcome this, DynCorp accepted some candidates from minority groups with lower literacy rates and embedded a literacy program into basic training for any recruit wanting or needing it.

Infusing civics, federalism and literacy instruction into the overall basic training framework is an excellent example of private sector innovation not found in similar public sector efforts. United States efforts at raising security forces in Afghanistan and Iraq faced similar hurdles as were seen in Liberia, yet lacked any sort of systematic approach to instilling federalism, literacy or respect for the rule of law. This failure stems, in part, from the US military's reluctance to abandon its doctrine when restructuring security forces, often to

⁷⁴⁷ Some topics, such as civil disobedience, were omitted from the civics curriculum for obvious reasons.

the detriment of those foreign forces—and unfortunately, like the market for force in the Middle Ages, the contractor is only as good as the client. After the first iteration of basic training, the State Department asked DynCorp to remove the three weeks of civics courses on advice from DOD and to save money. Owing to this, it is difficult to assess the efficacy of DynCorp's civics program.

To save money, the State Department chose to shorten basic training by three weeks, which it did by removing all civics, human rights, and laws of war classes—perhaps the most important training for the new AFL, since most recruits already knew how to shoot an AK-47 from the war. Industry critics might find this surprising, assuming the State Department would want the civics curriculum and the PMC would have no interest in implementing it, in a classic case of the profit motive overriding policy concerns. But PMCs are creatures of the market, and successful private sector actors anticipate future demand and innovate to distinguish themselves from competitors in order to attract potential employers, such as integrating civics into basic training consistent with the idea of human security.

In many ways this situation is a microcosm of the transformation from the Westphalian to neomedieval order. It is expected that the State Department, a quintessentially state-centric and Westphalian organisation, would cleave to a strong Clausewitzian military model, adept at using violence to secure the state and advance its political interests. Nor is it surprising that a

PMC, a fundamentally neomedieval actor, would choose a human security model that prioritised civics over violence to secure the country in a region characterised by state weakness. DynCorp's adoption of this un-Westphalian approach to securing a state demonstrates new military thinking and approaches emanating from the private sector—a herald of neomedievalism.

Surge Capacity

In industry parlance, a PMC's ability to rapidly marshal personnel and material resources to a needed location is called 'surge capacity', and it is a significant private-sector advantage over bureaucratically bulky public sector militaries. After the contract was awarded, the DynCorp team went from a skeleton staff to demobilising an army in three months—fast, compared to the public sector. It can take the US Army up to six months or a year to deploy an existing unit, and generating a new unit would take far longer.⁷⁴⁸ Smaller and more agile than the United States' government, DynCorp established a working staff of seventy-three contractors within three weeks of the order.

Further aiding the velocity of hires is the private military sector's ability to hire types of individuals its public sector counter-parts cannot: foreigners. Unconstrained by the US government's requirement to hire predominantly Americans, DynCorp recruited experts from around the planet—Canada, Mexico, Australia, Ghana, Germany, the United States and of course Liberia—

⁷⁴⁸ The US military does maintain rapid reaction forces such as the 82nd Airborne Division, which can deploy anywhere in the world in eighteen hours. However such units are rare, expensive to maintain and probably not rapidly deployed for a SSR mission.

to create a bespoke staff customised for AFL SSR. Several members had in-depth expertise in African affairs, having lived, worked and studied on the continent. This stands in stark contrast to a military unit deployed from Fort Bragg, North Carolina, with a one-size-fits-all mission and approach.⁷⁴⁹

Keeping rapid pace with these hires, logistics experts at DynCorp's headquarters in (then) Texas ordered equipment for the program—from pens to trucks to compounds for staff housing and offices—inexpensively by relying on economies of scale, the global supply chain and technical expertise in conflict zone logistics rivalling anything in the DOD. In fact, contractors currently handle much if not most of DOD's logistical requirements, indicating that the United States' military supply chain is already highly privatised.

Free Agent for Effectiveness

In the Middle Ages the mercenary Varangian Guard was fiercely loyal to the Byzantine Emperor and devoted to protecting him. Such fidelity was crucial in a court so insidiously convoluted and treacherous that the word *Byzantine* is used today to describe intractable bureaucratic politics. The secret of the Guard's success was its relative isolation from the intrigues of the court. All its warriors were drawn from the rugged Norse tribes of the north, which most courtiers and officials perceived as barbarians. As such, Guard members were outsiders rather than stakeholders in the schemes of the court, making them

⁷⁴⁹ US military units are not trained in DDR despite its importance for stability operations.

ideal bodyguards. Additionally, as outsiders they were not beholden to the vested interests of factions within the court and were free to perform their one task with single-minded efficiency and effectiveness.

Like the Varangian Guard, DynCorp was only a stakeholder in its contract and was immune from the bureaucratic factionalism within the unwieldy US government, enabling it to conduct SSR with concentrated effectiveness and avoid becoming entangled in bureaucratic turf wars and budget battles that can sabotage operational efficacy. Some inside the Washington beltway quip that the State Department and USAID are from Venus while the DOD is from Mars, referring to their inherently different cultures, priorities and perspectives.⁷⁵⁰ Interagency friction can pose problems for whole-of-government tasks like SSR that require the healthy integration of all government departments to success.⁷⁵¹ In a program requiring close State Department, USAID and DOD cooperation, officials from each organisation must make decisions that support their institutions' abiding goals—even if those decisions have little to do with the task at hand—or risk not being promoted within their organisation. This can retard program progress. By contrast, contractors have no long-term interests in their client's organisation and can freely make choices that support the program rather than equities back home. This does not suggest that DynCorp could act autonomously in

⁷⁵⁰ See, e.g.: Rickey L. Rife, *Defense Is from Mars, State Is from Venus: Improving Communications and Promoting National Security* (white paper) (Carlisle, PA: U.S. Army War College, 1998).

⁷⁵¹ For more information on the whole-of-government nature of SSR, see: Organisation for Economic Co-Operation and Development –Development Assistance Committee, *The OECD-DAC Handbook on SSR*.

Washington or Monrovia: it could not. But DynCorp managers did enjoy significantly more bureaucratic latitude than their US government counterparts, especially along interagency fault lines of defence, development and diplomacy. As an institutional outsider, DynCorp could be a free agent for effectiveness in a seemingly Byzantine bureaucracy.

As a private sector actor, DynCorp was not beholden to any country's military doctrine or textbook solutions and could freely mould existing protocols without fear of institutional reprisal. Substantially modifying doctrine to fit the needs of a host nation is a departure from the United States' own practice, which, as recent experience suggests, tends to transpose—wholesale—its own military models onto foreign forces without consideration as to whether they are appropriate or not.⁷⁵² Not surprisingly, these efforts meet limited success: US solutions to Iraqi or Afghani problems have made for a poor fit. By contrast, in Liberia, DynCorp used US Army training doctrine as a baseline for innovation rather than as an outright solution.⁷⁵³

⁷⁵² Until recently, the US military treated the formation of foreign forces primarily as a foreign internal defence (FID) mission. FID is an ill-fitting model for SSR; it is a Cold War concept informed by Maoist irregular warfare strategy rather than SSR principles. FID employed US Army special forces to covertly train and equip pro-American guerrillas in communist countries (e.g., the Montagnards in Vietnam) and help friendly governments defeat communist insurgents (e.g., El Salvador) in proxy wars between the United States and Soviet Union. This accounts for the US military's train-and-equip mentality when it comes to SSR, which yields only improved tactical units rather than a transformed security sector. This limited approach is promulgated in "Joint Publication (JP) 3-07.1: Joint Tactics, Techniques, and Procedures for Foreign Internal Defense (FID)."; U.S. Army and U.S. Marine Corps, *FM 3-24/MCWP3-33.5: Counterinsurgency*, chapter 6.; U.S. Army, *FM 3-07: Stability Operations*, chapter 6. After several years of FID failure in Iraq and Afghanistan, the US military finally drafted more comprehensive doctrine on SSR called security force assistance: U.S. Army, *FM 3-07/1: Security Force Assistance*. Though a significant improvement, this model does not address the full spectrum of SSR needs, such as vetting, and creates foreign militaries in the image of the US Army, which is inappropriate.

⁷⁵³ DynCorp's AFL basic training program was informed by the following US Army training doctrine and best practices: the US Army model of basic combat training (BCT), influenced by the US Army's 1983 and 1985 study and subsequent reviews of the BCT program; U.S. Army Training and Doctrine Command, *TRADOC Regulation 350-6: Enlisted Initial Entry Training (IET) Policies and Administration*

Additionally, DynCorp's outsider status allowed it to support Liberia's interests in the back offices of the Pentagon and State Department in Washington, DC, where Liberians could seldom venture. It became evident during the consultations that Liberians strongly advocated gender equality in the ranks while the US government did not. Before the civil war the AFL had an all-female unit called the Women's Auxiliary Corps, which was well respected even in 2005, and during the civil war some of the most feared warlords, such as Black Diamond, were women. Liberians understood that women could be effective warriors. However, the US military holds that women are not fit for combat and therefore should not serve in front-line units, and it initially opposed including women in AFL infantry units.

DynCorp thus became an unwitting arbitrator in a debate between the defence establishments in Washington DC and Monrovia. As a nominal outsider in the process, DynCorp could credibly present ideas and recommendations to entrenched bureaucracies on both sides of the Atlantic without the burdens of institutional loyalty or prejudice. This helped drive the argument for gender parity, since key managers in DynCorp were persuaded

(Washington, DC: Headquarters, Department of the Army, 2003).; and the US Army's program of instruction for basic training at Fort Jackson, South Carolina. US Army and AFL basic training relies on a three-phase 'soldierization' process. Phase I plunges recruits into regimented army life and organises them into thirty-man platoons. Phase II continues the enforcement of standards and begins combat training, such as basic rifle marksmanship (BRM) and physical training, and creates a company mind set, whereby all rise or fall together. Phase III concentrates on individual tactical training, movement techniques, small unit tactics, map reading, land navigation, first aid and other soldier skills. Transitioning from one phase to another was treated as a rite of passage as the training cadre evaluated and counseled each recruit regarding his or her performance and determined whether they should 'recycle' the phase or advance to the next one. Basic training culminated with a tough field training exercise (FTX) that, like a final exam, amalgamated all previous tactical training, plus a twenty-kilometre forced march. If recruits passed, they graduated to AIT training.

by the Liberians' case. Because the State Department managed the SSR contract, it had the final vote on the matter and opted for gender parity, overruling the DOD's desire to use US military templates and its bias against women in infantry units. Consequently, Liberian women now enjoy greater equality in their military than do American women.

The Bad

For all the success of the program, few things went as planned. This was partly due to the complexity of the task and difficulty of the environment, but also to the unique nature of the private military industry. Using private means to achieve public ends can sometimes pit profit motive against policy goals, and this created problems in the public-private partnership between the United States, DynCorp and Liberia.

Competition for the Worse

In the Middle Ages, Free Companies hired by the same employer did not always work well together, and the same is true today. The State Department awarded the remaking of the AFL to two companies, DynCorp and PAE, and despite the importance of their collective task they rarely coordinated. The idea of integrated operations is so critical to success in warfare that the US military even has a word for it—*jointness*—which refers to the ability of separate services, such as the US Army and Marines, to work closely together. The US government has devoted considerable energy to this challenge since the failure

of Operation Eagle Claw in 1980 to save American hostages in Iran and the subsequent Goldwater-Nichols Act of 1986 to remedy interoperability issues among services in the military. It is assumed in public sector militaries that different services ought to work well together.

No such assumption exists in the private military sector; PMCs are incentivised *not* to work closely together for a single yet powerful reason: proprietary knowledge. Companies do not wish to share trade secrets about how they operate or other sensitive information with their competitors, even when they jointly win a contract, as occurred in rebuilding the AFL. Instead, both firms focused on their discrete tasks and assume the other was competent. DynCorp's job was demobilising the old force and building a new one; PAE's assignment was providing newly formed units with logistical and technical life support until they were functionally autonomous (or until the contract expired). This was a flawed solution.

However, this approach became a problem where their mutual roles and competing interests intersected, to the detriment of the AFL. At the end of the contract the quality of the new AFL was tested using the US Army Training and Evaluation Program (ARTEP), a gruelling multi-day field training exercise (FTX) that certifies a unit's competency and declares it operational. Not surprisingly, the client also used the ARTEP to evaluate DynCorp and PAE, since the AFL's performance reflected on the companies and would affect future contract opportunities with the State Department. This was a

frustrating situation for both firms. PAE had almost no input in the training or force structure of the AFL, yet it was expected to finish what DynCorp started. From DynCorp's perspective, PAE modified and administered the ARTEP, which allowed its competitor to act as a peer reviewer of DynCorp's work.⁷⁵⁴ This created a dysfunctional working relationship that probably detracted from overall contract achievement. Worse, each was likely to blame the other if the State Department complained about the quality of training.

Another deleterious effect of free market competition between firms is leadership selection and training: today the AFL remains a mostly leaderless army comprised of two thousand privates. This is partly because neither firm had full responsibility for leadership selection and training, and it was ultimately neglected in a 'tragedy of the commons' dilemma.⁷⁵⁵ DynCorp was responsible for the initial training officers and NCOs while PAE would mentor them once they arrived at their home unit. To be fair, developing 'instant' senior leadership is extremely difficult and a fundamental challenge of SSR.⁷⁵⁶ In most modern militaries it takes twenty years to create a colonel and much longer to generate a general. Liberia cannot wait that long.

⁷⁵⁴ "Diggin' in: AFL Soldiers Complete FTX," *Military.com*, March 6, 2009.

⁷⁵⁵ The 'tragedy of the commons' describes a situation in which multiple individuals, acting in their own rational self-interest, deplete a shared limited resource even though it is not in anyone's interest to do so. Garrett Hardin, "The Tragedy of the Commons," in *Nature's Web: Rethinking Our Place on Earth*, Peter Marshall (Armonk, NY: M.E. Sharpe, 1993), 173.

⁷⁵⁶ Creating 'instant' senior leaders is a fundamental challenge of making a military from the ground up and one that SSR planners must weigh against the perils of lustration. Lustration culls undesirable members of a security force and then builds a new force around the 'desirable' individuals who remain. The challenge with lustration is that international actors seldom know who is 'desirable' and domestic ones use it to purge political adversaries in the ranks. For more information see: McFate, "The Art and Aggravation of Vetting in Post-Conflict Environments," 79.

DynCorp's initial plan called for the Liberian government to select leadership through a quarterly or monthly promotion board from recruits who demonstrated leadership potential in basic training or from applicants with relevant experience, such as Liberians serving in the US Army or UN peacekeeping missions. Then it was assumed PAE would mentor those leaders in the next phase of SSR. However, this process yielded few qualified leaders. An alternative was to have a foreigner lead the AFL, which is what the Liberian government chose: the AFL chief of staff is a Nigerian general. However, there was also third option, not considered by DynCorp, that was very neomedieval: the PMC would lead the army and train Liberian counterparts until they could take control. This might seem outrageous to some, but there is already precedent for it, as EO led client forces into battle during the 1990s.⁷⁵⁷ More likely than not, we shall see this again in the future.

Who Is Managing Whom?

Just as clients in the Middle Ages sent *provveditori* to watch over *condottieri* in the field, the United States sends contracting officer's technical representatives (COTRs) to oversee contractors, and like the *provveditori* before them, the COTR system is plagued with problems. In Liberia, the State Department officials responsible for the AFL SSR program resided in Washington, DC, and not Africa. Their acting COTR was a lone military officer who worked in the US Embassy's Office of Defense Cooperation (ODC). This individual was

⁷⁵⁷ Human Rights Watch Arms Project. *Angola: Arms Trade and Violations of the Laws of War Since the 1992 Elections* (New York: Human Rights Watch, 1994), 31.

responsible for overseeing the entire program and its hundreds of contractors, in addition to other embassy duties. Several ODC chiefs rotated through the embassy but few if any had significant experience managing multi-million dollar contracts, handling multi-billion dollar companies or building militaries wholesale in conflict-affected countries. One ODC chief was a navy officer with no real experience serving in armies, much less raising them. The lack of qualification was not the fault of the ODC chiefs, but their government: the United States routinely deploys COTRs without adequate training and resources to do their job, as the Gansler report confirms.⁷⁵⁸

The COTR's lack of expertise created asymmetries of information that DynCorp exploited for profit, just as the *condottieri* did with the *provveditori*. Because the COTRs were unfamiliar with rebuilding armed forces from the ground up, they relied too much on the company's expert opinion and access to information to make important business decisions on behalf of the government, creating a classic situation of moral hazard. Contractors are incentivised to stall, elongate or expand their contracts for profit, and do so by finding additional, billable tasks to accomplish. Accordingly, they are motivated to steer government officials' decisions towards this goal, but swaying COTRs potentially changes foreign policy implementation.

The situation in Liberia created the conditions for exploitation by DynCorp. The situation festered until finally the State Department inspector

⁷⁵⁸ *Urgent Reform Required: Army Expeditionary Contracting: The Report of the Commission on Army Acquisition and Program Management in Expeditionary Operations: Hearing Before the Subcommittee on Readiness and Management Support of the Committee on Armed Services, United States Senate*, 110th Cong. December 6, 2007.

general conducted an internal audit of the SSR program and found oversight weak. They observed that embassy personnel who were involved in SSR ‘received no training in managing or evaluating’ such programs. Worse, they discovered that the COTR occasionally ‘received invoices with vague descriptions, which covered work prior to his arrival in Liberia, or with questionable work descriptions’. They also found that the State Department staff responsible for the program in Washington, DC rarely visited Liberia. The inspector general’s report concluded that it ‘does not believe that such irregular visits assure adequate project oversight for this substantial program which spent \$127 million through FY 2007’.⁷⁵⁹

Outside observers agree. The International Crisis Group found that in Liberia ‘oversight structures employed by the US State Department have been shoddy’ and recommended that ‘the State Department, therefore, should radically revamp its oversight system’.⁷⁶⁰ This is representative of a larger problem echoed by many industry critics: the United States has limited regulation of and oversight over PMCs despite employing them widely, creates conditions for abuse by the contractor. The objectives of profit and public policy often diverge, and this can alter policy outcomes as firms subtly steer client decisions in favour of profit over policy goals.

⁷⁵⁹ U.S. Department of State, *Report of Inspection Embassy Monrovia, Liberia Report Number ISP-I-08-20a* (Washington, DC: US Government, 2008), 16.

⁷⁶⁰ International Crisis Group, *Liberia: Uneven Progress in Security Sector Reform*, i, 19, 34.

Who Owns What?

Like the *condottieri*, contemporary contractors serve only their paymasters at the expense of other relevant considerations, such as process ownership. Ownership has become a mantra of the international community vested in developing fragile and failed states; it refers to local political and popular support for foreign assistance programs like SSR, and there is a growing consensus among scholars that early local ownership is crucial to program sustainability and legitimacy.⁷⁶¹ The concept is simple enough: a foreign power that wields a heavy hand in transforming another country will likely alienate the very people it aspires to benefit, negating the purpose of the program. Or as Laurie Nathan explains, 'Experience shows that reform processes will not succeed in the absence of commitment and ownership on the part of those undertaking reforms'.⁷⁶²

⁷⁶¹ Despite this growing consensus, ownership remains a contested concept, and how one translates this principle into practice is challenging. Even the definition of local ownership is disputed. Who gets to decide who the key stakeholders are when determining local ownership? Deciding which local leaders and political groups truly represent local aspirations is difficult and fraught with uncertainty, and has political ramifications both within indigenous and international politics. Also, local actors often have competing visions and priorities, and choosing local partners can be perilous in conflict-affected countries where there is often imperfect knowledge of parochial agendas. It may prove difficult to keep insurgents and spoilers out of the process, and if they are deemed key stakeholders, it provides them a platform of legitimacy and the ability to obstruct progress from within while making it difficult to expel them. Finally, measuring ownership is difficult. Should metrics privilege local values and priorities or international ones? Local ownership is sound in theory but ambiguous in practice. For more information on this topic see: Elizabeth Panarelli, *Local Ownership of Security Sector Reform* (Washington, DC, United States Institute for Peace, 2009).; Marc J. Cohen and Tara R. Gingerich, *Protect and Serve or Train and Equip? U.S. Security Assistance and Protection of Civilians* (Washington, DC: Oxfam America, 2009).

⁷⁶² Laurie Nathan, ed. *No Ownership, No Commitment: A Guide to Local Ownership of Security Sector Reform* (Birmingham, UK: University of Birmingham, 2007), 1.

Because the AFL SSR process relied heavily on US support, some scholars assert it lacks ownership, sustainability and legitimacy.⁷⁶³ Morten Bøas and Karianne Stig sum up this collective critique when they claim that the lack of transparency, accountability and participation of local Liberians in the SSR process led to a paucity of ownership of the program.⁷⁶⁴ Even the US Congressional Research Service questions the balance between foreign support for and national ownership of security in Liberia, and worries that lack of adequate public input has created an AFL where ‘political legitimacy might be called into question’.⁷⁶⁵

Contractors compound the quandary of ownership because, as Adedeji Ebo reasons, ‘there is no direct contractual obligation between the security contractor and the institutions and people of the reforming state’.⁷⁶⁶ Not even the Liberian minister of defence had a copy of DynCorp’s contract to transform the AFL he was to lead, demonstrating a lack of transparency in the process (see annexes for copies of the contract). This created a problematic situation. Liberians were neither an employer nor a signatory to the contract, even though they were the intended beneficiaries of the program. Consequently, the Liberian government had only limited ability to direct DynCorp; the company, in essence, was not accountable to the state, even as it

⁷⁶³ Ebo, “Liberia Case Study.”; Bøas and Stig, “Security Sector Reform in Liberia.”; Louise Andersen, *Post-Conflict Security Sector Reform and the Challenge of Ownership: The Case of Liberia* (Copenhagen: Danish Institute for International Studies, 2006).

⁷⁶⁴ Bøas and Stig, “Security Sector Reform in Liberia,” 286.

⁷⁶⁵ Cook, *Liberia’s Post-War Development*, 26.

⁷⁶⁶ Ebo, “Liberia Case Study,” 154-155.

was rebuilding its military forces. For Bøas and Stig, ‘this clearly represents a democratic deficit in the SSR’.⁷⁶⁷

Critics’ conclusions may be somewhat overstated. Few Liberians seemed concerned about the US role in the AFL SSR process, especially given the urgent need for military reform and the strong historical ties between the two countries. Nor were Liberians troubled by the presence of contractors: there were no riots, protests, violence or other evidence of widespread PMC rejection. DynCorp’s frequent overtures to civil society—almost always through the government of Liberia—were met with general disinterest. The Liberian minister of defence had multiple occasions to join DynCorp on its recruitment trips starting in 2006, but chose not to accompany the firm until 2008.⁷⁶⁸ Additionally, the NTGL—and not DynCorp—determined who was eligible for demobilisation benefits and who would be admitted into the new AFL. This suggests a lack of worry on the Liberian government’s part rather than a failure of transparency on DynCorp’s, as more recent scholarship confirms:

The Liberian Ministry of Defence, the legislature and civil society have had opportunities to involve themselves more in the reform than they have done, thus suggesting that the reform is not proceeding as such a closed process as previous research on the SSR has argued (Ebo 2005, 2007, Loden 2007).⁷⁶⁹

⁷⁶⁷ Bøas and Stig, “Security Sector Reform in Liberia.”

⁷⁶⁸ Ibid, 289.

⁷⁶⁹ Ibid, 289. Other references cited: Ebo, “Liberia Case Study.”; Adedeji Ebo, “The Challenges and Opportunities of Security Sector Reform in Post-Conflict Liberia,” Occasional Paper no. 9 (Geneva: Geneva Centre for Democratic Control of Armed Forces, 2005), 1-28.; Alexander Loden, “Civil Society

Other problems undermine academic critiques over ownership. Can foreign scholars really speak for Liberians on the question of local ownership? Can outside observers claim Liberia had no ownership of AFL SSR if its government had approved and accepted a gratis program that the United States provided through its contractors?⁷⁷⁰ Can simultaneous assertions that there was no local ownership and that ownership is necessary for success be made if Liberians have not rejected the AFL and it is a success compared to the Liberian National Police and other elements of the security sector? The International Crisis Group describes progress in Liberia's security sector reform as 'uneven': while 'the police are still widely considered ineffective and corrupt', 'Army reform appears to be a provisional success'.⁷⁷¹

Other researchers are more acerbic about the use of a PMC in Liberia. As Mark Malan writes in a monograph for the US Army War College, 'In a country and region where recent history has been shaped by warlords and mercenaries, the US Department of State has shown remarkable insensitivity by sending in contractors to shape the new army'.⁷⁷² Comparing DynCorp to Liberian warlords and mercenaries without supporting evidence is absurd and reveals how ingrained the Westphalian taboo against private military functions remains in academic and policy thinking. Even the International Crisis Group—

and Security Sector Reform in Post-Conflict Liberia: Painting a Moving Train Without Brushes," *International Journal of Transitional Justice* 1, no. 2 (2007): 297-307.

⁷⁷⁰ Liberian Ministry Of Foreign Affairs, *Status of Forces Agreement NTGL/MFA/0212/2-2/05: Arrangement Between the Government of the United States of America and the National Transitional Government of Liberia Concerning Security Sector Reform in the Republic of Liberia*, 2005.

⁷⁷¹ International Crisis Group, *Liberia: Uneven Progress in Security Sector Reform*, i-ii.

⁷⁷² Malan, *Security Sector Reform in Liberia*, 69.

—no apologist for the private military industry—agrees that such interpretations are extreme and declares itself ‘agnostic’ on the issue.⁷⁷³

However, despite exaggerations over ownership and the pro-Westphalian zeal of some observers, the concern remains valid. An example of this lack of ownership is the sensitisation and recruiting efforts. Despite DynCorp’s efforts to localize the campaign by hiring locals to help design it, many Liberians found it bumbling and even insulting. The use of well-dressed and healthy-looking children on some of the AFL recruiting posters was not well received by a population traumatised by child soldiers. Many asked whether the children on the posters were American, given their health. This demonstrated a lack of cultural sensitivity on the part of the campaign designers, partly because the messages were not thoroughly tested on Liberian focus groups before they went public. Similarly, the comic books received mixed reactions; they were an effective tool for illiterate audiences but repelled some educated Liberians, who found them infantilising.

Worse, DynCorp’s attempt to combine sensitisation and recruiting into a single campaign to conserve resources and time muddled messages and hampered the efficacy of both. In many ways, these two information efforts are incompatible. The objective of the sensitisation program is to alert the public to the new military’s formation in the most transparent and neutral manner possible, whereas the purpose of recruitment is advocacy by framing information in a highly positive way to encourage enlistment. DynCorp chose

⁷⁷³ International Crisis Group, *Liberia: Uneven Progress in Security Sector Reform*, 31.

to prioritise recruitment over sensitisation, which should not be a surprise. After all, it was hired to raise an army, not facilitate a civil society discourse on role of the new AFL. Too much indigenous criticism of what it was doing could have resulted in the State Department cancelling its contract. But this lack of transparency and civil society engagement is an important component of SSR as it inculcates ownership and acceptance of the new AFL.

Like the *condottieri*, DynCorp sought primarily to please its client—the United States—and not Liberia, whose military it was rebuilding. This created incentive structures that explain some of the PMC’s behaviour in country, such as the weak sensitisation campaign. That SSR was contracted to a private military rather than assigned to a public one fundamentally altered the relationship between the three main actors: the United States, Liberia and DynCorp. This distorted the strategic outcome of the program. Akin to the medieval market for force, conducting this operation as a business transaction fundamentally changed it by shifting control to the entity with the power of the purse, the United States. The United States demanded the PMC brief it first on all major program decisions, often without the Liberian government’s knowledge, allowing it to make important decisions and influence plans before the Liberian government was even consulted. The State Department finalised and approved DynCorp’s plans for demobilisation, training, force structure, recruiting and vetting before they were formally presented to the Liberian Minister of Defence, often as a *fait de compli*. This gave the United States a

significant—and perhaps undue—advantage in shaping the future of Liberia’s military for its own strategic interests.

Changing the Tool Changes the Outcome

Modern PMCs alter international outcomes by their very presence, just as the *condottieri* did in the Middle Ages. Contemporary military strategists may be tempted to think of PMCs as a second-rate substitute for national army units and deploy them accordingly, but such idealisations are dangerously wrong. PMCs are not a swappable standby for public armies because they are fundamentally different in their composition, nature and purpose, and this can change strategic outcomes in unexpected ways. Blackwater’s killing of seventeen civilians at Nisour Square in Baghdad caused global outrage, galvanised anti-American sentiment during the US military’s ‘winning hearts and minds’ counter-insurgency campaign, and necessitated the secretary of state’s direct involvement to appease the region. By contrast, few remember when US Marines killed twenty-four Iraqis at Haditha, Iraq, under similar circumstances. The key difference between these two events is that the former involved private warriors and the latter did not, resulting in wholly different consequences for the war and the world.

Contractors change outcomes in more subtle yet pervasive ways too. In Liberia, principal-agent challenges unique to contracting infused every aspect of the AFL SSR program. The initial meetings with stakeholders were crucial to the SSR process, since early decisions shaped the program as a

whole; achieving some modicum of consensus was vital, and ideally this task would have fallen to the US Embassy. However, embassy staffing was thin and over-burdened, as noted in the inspector general's report.⁷⁷⁴ Owing to this, the job of engaging stakeholders unofficially fell to DynCorp, allowing the firm to influence outcomes in its favour. The US defence attaché or ODC chief often accompanied DynCorp staff on these meetings but, as explained above, their role as overseer was limited due to inadequate contract management training, available resources to do their job and asymmetries of information and expertise.

Although DynCorp had no real vote in any stakeholder meeting, it was the de facto representative of the US government when it met with Liberians. This afforded the company a certain modicum of convening authority and agenda setting power that allowed it to influence decisions and ultimately outcomes. It could identify stakeholder groups by choosing whom to invite and partially select leadership by deciding which individuals to engage regardless of whether that person's opinion represented the group as a whole. DynCorp also could select and sequence issues for discussion, shaping outcomes by strategically proposing solutions for stakeholders to adopt. The company even had some power to veto or simply ignore concerns that it deemed unrealistic, not operationally possible or unprofitable. If he was present, the US representative often supported DynCorp's veto.

⁷⁷⁴ U.S. Department of State, *Report of Inspection Embassy Monrovia*.

Pay Problems

As with the medieval paymasters of the *condottieri*, sporadic payments by the client jeopardised the campaign. The United States paid for the SSR program, save the soldiers' salaries, making progress vulnerable to the ebb and flow of State Department funding.⁷⁷⁵ Money for the DDR of 13,770 legacy soldiers was scarce, delaying their demobilisation and placing the entire SSR effort—and arguably the country—in peril. In late April 2006, 400 to 500 former AFL soldiers conducted a violent protest outside the Ministry of Defence, claiming non-payment of salary arrears and retirement benefits, and clashed with UNMIL peacekeepers sent to quell the unrest.⁷⁷⁶

Erratic funding to other parts of the program resulted in inchoate outcomes. The Ministry of Defence reform program was prematurely terminated after the completion of a seventeen-week civil servant training course but before the implementation of a planned five-month mentoring and on-the-job training phase. Consequently, new civil servants had no source of advice or assistance as they assumed their official duties in the new ministry, rendering it severely incapacitated.⁷⁷⁷

Lapses in client funding and Liberian capacity also created dangerous situations. Training was stopped for months due to lack of payment by the State Department, leaving new soldiers to sit idle while they waited for follow

⁷⁷⁵ At the time, much State Department PKO funding was being diverted to stem the worsening situation in Darfur among other priorities.

⁷⁷⁶ Total demobilisation costs totalled approximately \$15 million. Cook, *Liberia's Post-War Development*, 22.

⁷⁷⁷ Thomas Dempsey, *Security Sector Reform in Liberia Part I: An Assessment of Defense Reform*, Issue Paper no. 2008 (Carlisle, PA: Peacekeeping and Stability Operations Institute, U.S. Army War College, 2008), 3.

on recruits to fill out their unit. Making matters worse, the Ministry of Finance still did not have the capacity to pay soldiers in 2006, demonstrating that in recovering failed states all institutions must rise together. This created the dangerous situation of unpaid and disgruntled soldiers that the SSR program sought to avoid from the outset.

Meanwhile those ready to report to basic training were literally told, ‘don’t call us, we’ll call you’ by frustrated SSR program staff. The program then consisted of nearly one hundred international (US and third-country national personnel combined) and several hundred local national staff. Sending the international staff home and furloughing the local staff to save money would cause resentment among the locals, given Liberia’s 75 per cent unemployment rate, and many of the international staff were specialists who were difficult to replace.

Frustrated and fearing that it might have to leave Liberia for lack of payment—an option few public armies would consider—DynCorp urged its client to stabilise the funding stream. The high cost of paying expensive employees to sit idle in a country where the average person subsisted on \$1.25 a day sent a cynical message to the population, already somewhat dubious over the new AFL. Also, it created a dangerous situation in an unstable state, as DynCorp was unable to store weapons and ammunition safely without an armoury, which PAE was scheduled to build but could not because of lack of money. Worse, soldiers who completed training would have no military base to

report to, as PAE had yet to complete bases, which could prove a perilous situation for Liberian society and discredit the entire SSR program. As Mark Malan notes, 'Weak and erratic funding from the US Department of State is the main cause of the slow pace of AFL development'.⁷⁷⁸

The Ugly

The most significant fact of DynCorp's work in Liberia is that the private sector can raise an army at all. Like Hawkwood, Wallenstein, the British East India Company and other predecessors, DynCorp made a military for a client and did so without external assistance other than payment. The Liberia program was not a public and private partnership involving a hybrid of US soldiers and PMC personnel working together to transform the military, as has happened in Iraq, Afghanistan, the Balkans and elsewhere. Liberia's armed forces are unique in that they were generated entirely by the private sector. DynCorp would even have had an easier time with its undertaking if it had a less finicky and legally constrained client than the State Department and a more laissez-faire context than a UN peacekeeping mission.

If a company can create a military then it also has the expertise to deploy it, since the skill sets are intertwined and PMCs enlist most of their leadership from those with significant experience in other militaries,

⁷⁷⁸ Malan, *Security Sector Reform in Liberia*, x. See also: Cook, *Liberia's Post-War Development*, 23.

intelligence or law-enforcement organisations.⁷⁷⁹ For instance, DynCorp could have easily provided former military officers to lead the AFL, on a temporary or permanent basis, as EO did in Angola and elsewhere. Also, it was well within the PMC's grasp to purchase and move small arms illegally and without state support, since the State Department role, beyond financier, was managing the legal requirements of the transfer while the machinations of the deal itself were left to the firm. Although DynCorp had no intention of building its own army, taking over the AFL or illegally supplying weapons to regional actors, the PMC—and others like it—currently possesses the ability to do so.

The implications of this for international relations are substantial. The erosion of the taboo against private violence, coupled with the decline of state authority and ascendancy of non-state global actors, augurs a neomedieval world where the means of war are available to anyone who can afford it. Like the *condottieri* of old, this holds the power to change warfare, why we fight and the future of war. The age of the PMC is upon us and perhaps never left in places like Africa.

⁷⁷⁹ This thesis does not suggest that DynCorp secretly desired to deploy the AFL, only that it possessed the requisite expertise to do so.

Chapter 6

Back to the Future

I'll get paid for killing and this town is full of men who deserve to die

—Sanjuro, masterless samurai, from Akira Kurosawa's *Yojimbo* (1961)

Liberia is just the beginning of the new market for force. To date, the market has remained highly US-centric, since the country is the main consumer of private military force, but there is no reason to assume it will always be this way. Already more combat-capable private armies are emerging akin to their medieval ancestors, and the commodification of conflict is expanding beyond the grasp of the United States and its coalition partners in Iraq or Afghanistan. In 2011 alone, private warriors of all stripes have come out of the shadows to engage in for-profit warfare. In Afghanistan warlords act as free-market

modern *condottieri*: they offer for-hire fighters capable of dispersing Taliban and other armed threats, and the United States employs many of them, as demonstrated by its host nation trucking contract.⁷⁸⁰ Libyan president Gaddafi hired mercenaries from across Africa to brutally suppress the popular revolt against him, just as England's King Henry II did in the twelfth century. Both sides in Côte d'Ivoire's war of succession used mercenaries, mostly from Liberia, who have committed atrocities reminiscent of Hawkwood's destruction of Cesena in 1377.⁷⁸¹ PMCs Saracen International and Bancroft Global Development independently train Somalis to battle pirates and Islamic militants. Abu Dhabi, the capital of the United Arab Emirates, paid the PMC Reflex Responses \$529 million to build a small army of 800 foreign troops to conduct special operations missions inside and outside the country, defend oil pipelines and other infrastructure from terrorist attacks and put down internal rebellions.⁷⁸² Moreover, this phenomenon is not restricted simply to unstable places but affects rich and poor countries alike, both in times of crisis as well as everyday functioning. The US military is highly privatised, with contractors comprising half of its force structure, and the country can no longer fight a sustained war without the private sector.

⁷⁸⁰ *Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan: Report before the Subcommittee on National Security and Foreign Affairs, U.S. House of Representatives*, 111th Cong. (June 22, 2010).

⁷⁸¹ According to reports, mercenaries waged a campaign of terror resulting in at least 100 deaths and causing many hundreds more to flee their homes. Chen Zhi, "Over 100 People Killed in Southwest Cote D'Ivoire," *Xinhua News*, May 11, 2011.; Matthew Russell Lee, "In Cote D'Ivoire Gbagbo is Using Mercenaries, From Liberia, UN Says, US Unaware," *Inner City Press*, December 20, 2010.

⁷⁸² Mark Mazzetti and Emily B. Hager, "Secret Desert Force Set Up By Blackwater's Founder," *The New York Times*, May 14, 2011.

Private armies are back and not likely to go away, and this is a harbinger of a wider trend in international relations: the emergence of neomedievalism. The return of private armies is symptomatic of the general decline of state authority in world politics and suggests a fundamental shift in the organisation and distribution of power within the international system. In the state-centric Westphalian world order, states are the only actors in international politics, the only subjects of international law and the only entities that can legitimately use force to impose their authority. Mercenaries are strictly outlawed because they can threaten a state's monopoly of force to assert this authority and contest its existence. The reappearance of private armies signals a return to the pre-Westphalian norm of the Middle Ages, when states did not enjoy the monopoly of force or special authority in world politics. Instead, the medieval world was polycentric in nature, with authority diluted and shared among state and non-state actors alike.

States will not disappear, but will matter less than they did a century ago. They already increasingly compete with IOs, NGOs, MNCs, politicised ethnic and religious groups and other non-state actors for political dominance in world affairs. Nor does neomedievalism connote worldwide chaos and anarchy; the global system will persist in a durable disorder that contains rather than solves problems. The implications of this are enormous, suggesting that international relations in the twenty-first century may have more in common with the twelfth century than with the twentieth.

Neomedievalism is not necessarily a pejorative condition yet one disturbing aspect is the commodification of conflict: offering the means of war to anyone who can afford it will change warfare. Like the Middle Ages, there will be advantages and disadvantages to this new way of war, and it would be wrong to reflexively dismiss this development as wholly unwelcome. Those brought up to see war in purely ideological terms, namely as an armed contest between two or more states, might assume the privatisation of conflict guarantees greater violence, yet this overlooks the obvious: that some of the bloodiest wars in history, such as World War I and World War II, were fought at the apex of the Westphalian order. For others, this growing dependence on PMCs and the increasing private-public partnership in warfare is actually a next stage of modernity, not a regression, as society redistributes the risks of war more broadly.⁷⁸³

Moreover, like the *condottieri* of old, modern PMCs require some modicum of law and order to function, such as a reliable banking system, contract enforcement mechanisms, a physical headquarters, a safe base of operations and other accoutrements of stability. As Coker reminds us: ‘transnational companies like stable, not fragile states’.⁷⁸⁴ Qualified PMCs could provide much-needed soldiers to the United Nations, which faces an ever-increasing demand for peacekeeping missions. Peacekeeping will no doubt

⁷⁸³ Hans Joas, *War and Modernity: Studies in the History of Violence in the 20th Century*, trans. Rodney Livingstone (Cambridge: Polity Press, 2003). Joas references Beck’s discussion of risk redistribution in a ‘risk society’: Ulrich Beck, *Risk Society: Towards a New Modernity* (London: Sage Publications, 1992). See also: Coker, *War in an Age of Risk*.

⁷⁸⁴ Coker, “Outsourcing War,” 111.

become a niche market for PMCs, and the United Nations could lead the way in developing PMC best practices, a registration and licensing program and a regulatory framework to ensure quality control for privatised peacekeeping. Lastly, the private sector can find more efficient and effective ways of achieving war aims, sometimes sparing blood and treasure.

However, the benefits should not disguise the darker side of private warfare, also demonstrated in the Middle Ages. Linking armed conflict with profit motive incentivises private armies to elongate and expand war for financial gain. On-demand military services can lower the barriers to entry into conflict, making war more likely. Similarly, military supply can generate demand through racketeering and extortion. Contract warfare is also fraught with difficulties, especially in enforcing the contract's terms when the client is unarmed and the contractor is. A PMC can exploit asymmetries of information between itself and its client, to the profit of the company and the detriment of overall peace and stability. These dilemmas are only the beginning of a brave new world that looks remarkably old; yet today's private military industry may move beyond even the *condottieri's* ambitions.

Peace Through Profit Motive?

The 1961 Japanese movie *Yojimbo*, directed by Akira Kurosawa, tells the story of Sanjuro, a masterless samurai or *ronin*, who arrives at a small town torn asunder by two competing criminal gangs. The *ronin* persuades each crime lord to hire him as protection from the other, and through skillful political

manipulation and the bloody use of his sword he successfully pits the rival gangs against each other. The gangs are soon annihilated in battle while the *ronin* enriches himself; he then moves on to the next crime-ridden town. By acting in his economic self-interest, the *ronin* brings peace to the town, albeit with much collateral damage.

The future of private armies may look like the plot of *Yojimbo*. It is certainly conceivable that a PMC today could secretly and simultaneously serve two clients at war with each other, as did the *ronin* in *Yojimbo*, expanding the conflict for profit until both sides destroy each other, after which the PMC would move on to the next conflict and business opportunity. More nuanced scenarios also abound. A human rights organisation such as Amnesty International could hire a PMC to stage a humanitarian intervention in a place like Darfur or the DRC to save lives, justified by the responsibility to protect doctrine in a ‘liberal vigilantism’.⁷⁸⁵ This in turn could prompt the invaded government to hire an opposing PMC—sourced from a country like China, which has a troubled human rights record—to counter the first PMC and help ‘pacify’ the area. If PMCs are truly profit-maximising entities, it is also likely they would cut deals among themselves, either explicitly or implicitly, to promote their own business interests, namely spreading conflict for the sake of profit.

⁷⁸⁵ UK Deputy Prime Minister Nick Clegg described the humanitarian interventionist policies of former Prime Minister Tony Blair as ‘liberal vigilantism’. See: “Nick Clegg hails ‘Axis of Openness’ amid Libya action,” *BBC News*, March 29, 2011.

The result could be two or more PMCs fighting an artificially prolonged proxy war in Africa for state and non-state actors, with far-reaching implications for international relations. Such a situation would signal the existence of a truly free market for force, the erosion of states' monopoly of force and the corrosion of national sovereignty. Furthermore, the commercialisation of conflict would introduce the possibility of international vigilantism, as the means of warfare would become available to non-state actors, undermining the current international system of state-based global governance. In sum, it would herald—if not create—neomedievalism.

Not Just Fantasy

The above scenario may sound like a movie script but it is not. In 2008, millionaire actress Mia Farrow approached Blackwater and a few international humanitarian NGOs to end the genocide in Darfur, where approximately 300,000 people have died since it began in 2003.⁷⁸⁶ The plan was simple. Blackwater would stage an armed intervention in Darfur and establish so-called islands of humanity, refugee camps protected by PMC firepower for civilians fleeing the *janjaweed* and other militants. During this time, the human rights group would mount a global name-and-shame media campaign to goad the international community into ending the genocide once and for all with a robust Chapter VII UN peacekeeping mission. There were two critical

⁷⁸⁶ Harvey Morris, "Activists Turn to Blackwater over Darfur," *Financial Times*, June 19, 2008. See also: Anna Schecter, "Breakfast with Blackwater: Mia Farrow and Blackwater CEO Prince Met to Discuss A Possible Collaboration," *ABC News*, August 20, 2008, accessed April 5, 2009, <http://abcnews.go.com/print?id=5617186>.

questions, however: could Blackwater actually stage an armed intervention in Darfur, and, if so, was this desirable?

The answer to the first question was certain: Blackwater could feasibly stage a humanitarian intervention. In 2005 it launched a subsidiary company called Greystone that could rapidly deploy a military force anywhere in the world to create a more secure environment for its customers. In the words of the company, 'Greystone is an international security services company that offers your country or organisation a complete solution to your most pressing security needs.... Customer satisfaction is our primary focus, and we deliver superior services with professionalism and flexibility'. The company website lists humanitarian peacekeeping as a primary service that 'provides a light infantry solution that is self-contained and self-sufficient. The Greystone peacekeeping program leverages efficiency of private resources to provide a complete cost effective security solution'.⁷⁸⁷ Also discussed was the possibility of training and equipping Darfurians or African Union peacekeepers to better defend against Sudanese aggression. Lastly, a range of offensive combat operations were contemplated that would disrupt or damage the Sudanese military's and *janjaweed's* ability to conduct the genocide. After preliminary research, independent experts verified that Greystone probably could stage a humanitarian intervention in Darfur for days and perhaps even weeks.⁷⁸⁸

⁷⁸⁷ "Company Website," Greystone LTD, accessed April 11, 2009, <http://www.greystone-ltd.com/index.html>.

⁷⁸⁸ The author served as an independent expert on a pro bono basis to a non-governmental organisation considering this course of action in 2008.

The answer to the second question was not as certain. Even though Blackwater could stage a humanitarian intervention in Darfur, there were doubts as to whether it should. The action would brazenly violate international law, although some in the NGO community argued this was justified by state and UN failures to enforce human rights laws. However, there were many concerns. First, on a pragmatic level, the intervention could trigger additional violence and reprisals in the region, worsening the situation for local Darfurians in the long run. It would also certainly undermine ongoing diplomatic efforts to resolve the conflict peacefully, even if those efforts were paltry, and possibly drag the United States into a war with Sudan, since Blackwater was an American firm. Also, Blackwater employees conducting the operation could be tried by the ICC for war crimes, which both Blackwater and the NGOs found bitterly ironic given their mission to protect human rights and the ICC's arrest warrant for the president of Sudan for propagating genocide.

On a theoretical level, a private military humanitarian action would set a precedent that many states would not welcome—the possibility of international vigilantism—that would challenge the state's monopoly of force and ultimately undermine the Westphalian system of state-based global governance, if left unchecked. This was exactly what the NGO and others were hoping for; they assumed the international community of states, in addition to condemning Blackwater, would have to reassert its collective

monopoly of force via a Chapter VII peacekeeping mission, as international law demands. Allowing Blackwater to remain on the ground would validate the most extreme of neomedieval precedents: non-state actors hiring private military organisations to achieve private purposes.

Ultimately, all parties decided not to pursue the possibility of a private military intervention. However, it is possible—even probable—that in the future, individuals and organisations will overcome such reservations and retain less fussy PMCs to do their bidding. A tycoon seeking an altruistic legacy might hire a PMC from, say, Chechnya, which has a surplus of unemployed fighters and a deficit of respect for the laws of war, to stage a similar operation for the purposes of posterity. If successful, it could trigger similar undertakings that would cement the free market for force and provide the final piece of the neomedieval puzzle.

A neomedieval market for force is closer than many might suppose. After the Iraq and Afghanistan bubbles burst, PMCs will seek new markets and develop new services or go out of business, and multi-billion dollar industries like PMCs tend not to go bankrupt without a fight. This new market will be in Africa since—like Northern Italy in the Middle Ages—that is where the conflict and instability is, and thus where PMC services are in highest demand. In the abstract, it is natural that supply should seek demand and vice versa, yet in reality, introducing an industry vested in conflict into the most

conflict-prone continent in the world is vexing, given the possible consequences for the people who live there.

Moreover, in the coming years, the market is likely to change. Supply of military services probably will diversify, as PMCs develop from Russia, China and elsewhere, offering greater combat-oriented possibilities and working for the highest bidder with scant regard for human rights or international law. Supply can create demand, which can also diversify as new clients emerge from the new cast of neomedieval characters on the world stage: fragile states and tyrannical regimes augmenting their forces, UN missions requiring additional peacekeepers, MNCs and shipping lines protecting their assets, NGOs needing security, opposition groups seeking regime change and the whims of super-empowered individuals. Africa could begin to look very neomedieval—in the worst ways—and it might spread to other continents that know war. Few would like to see an unbridled market for force emerge in the twenty-first century. Yet such a neomedieval world is already upon us.

Glossary

AFL	Armed Forces of Liberia
AFRICOM	US Africa Command
AIT	Advanced Individual Training
AQIM	<i>Al Qa`ida</i> in the Islamic Maghreb
AR	Army Regulation
ARTEP	Army Readiness Training Evaluation Program
AU	African Union
BTC	Barclay Training Center
CEO	Chief Executive Officers
CIA	Central Intelligence Agency
COIN	Counter-Insurgency
COTR	Contracting Officer's Technical Representative
CPA	Comprehensive Peace Agreement
DAMC	Demobilization Advisory Monitoring Committee
DDR	Disarmament, Demobilisation and Reintegration
DDRR	Disarmament, Demobilisation, Rehabilitation and Reintegration
DOD	US Department of Defense
DOS	US Department of State
DRC	Democratic Republic of the Congo
EBO	Effects-Based Operations
ECOMOG	Economic Community of West African States Monitoring Group
ECOSOC	Economic and Social Council
ECOWAS	Economic Community of West African States
EO	Executive Outcomes

EU	European Union
FBI	Federal Bureau of Investigation
FDI	Foreign Direct Investment
FTX	Field Training Exercise
FY	US Fiscal Year
GAO	Government Accountability Office
GATT	General Agreement on Tariffs and Trade
GC	General Contractors
GDP	Gross Domestic Product
GNP	Gross National Product
ICC	International Criminal Court
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IDIQ	Indefinite Delivery/Indefinite Quantity contract
IDPs	Internally Displaced Persons
IET	Initial Entry Training (AKA military 'Basic Training')
IMF	International Monetary Fund
IO	International Organisation
ISAF	International Security Assistance Force (NATO-led security mission in Afghanistan)
ISI	Pakistan Inter-Services Intelligence agency
ISOA	International Stability Operations Association (formerly the International Peace Operations Association or IPOA)
JPB	Joint Personnel Board
JSR	Justice Sector Reform
LOAC	Laws of Armed Conflict
LOGCAP	Logistics Civil Augmentation Program
LTTE	Liberation Tigers of Tamil Eelam

LURD	Liberians United for Reconciliation and Democracy
MEJA	Military Extraterritorial Jurisdiction Act
MNC	Multinational Corporation
MOD	Ministry of Defence or Ministry of National Defence
MODEL	Movement for Democracy in Liberia
MOS	Military Occupation Speciality
MPRI	Military Professional Resources Inc.
MSF	<i>Médecins Sans Frontières</i> (Doctor's Without Borders)
NCO	Non-Commissioned Officers
NDS	National Defence Strategy
NGO	Non-Governmental Organisation
NPFL	National Patriotic Front of Liberia
NTGL	National Transitional Government of Liberia
NTP	Notice to Proceed
ODC	Office of Defense Cooperation
OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security and Cooperation in Europe
PAE	Pacific Architects and Engineers
PDC	Peace And Development Committee
PKO	Peacekeeping Operations
PMC	Private Military Company
PNTL	Timor-Leste National Police Force
PRC	People's Redemption Council
PRT	Provincial Reconstruction Team
PSC	Private Security Company
R2P	Responsibility to Protect

RFP	Request for Proposal
RMA	Revolution in Military Affairs
RPG	Rocket Propelled Grenade Launcher
RUF	Revolutionary United Front
SIGAR	Special Inspector General for Afghanistan Reconstruction
SIGIR	Special Inspector General for Iraq Reconstruction
SOW	Statement of Work
SSR	Security Sector Reform
TCN	Third Country National
TNC	Transnational Corporation
TO&E	Table of Organisation and Equipment
TRC	Truth and Reconciliation Commission
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNDP	UN Development Programme
UNDPKO	UN Department of Peacekeeping Operations
UNHCR	UN High Commissioner for Refugees
UNMIL	UN Mission in Liberia
UNOSOM	UN Operation in Somalia
US	United States of America
USAID	United States Agency for International Development
USD	US Dollars
VOA	Voice of America
VOC	Vereenigde Oost-Indische Compagnie (Dutch East Indian Company)

WAEC West African Examinations Council
WPPS Worldwide Personal Protective Services
WTO World Trade Organisation

Annexes

Annex A: Comprehensive Peace Agreement

The selection below is from the Comprehensive Peace Agreement (CPA), also known as the 'Accra Accords' because it was signed in Accra, Ghana, between warring parties of the Liberian civil war. This mandates SSR of the AFL.

COMPREHENSIVE PEACE AGREEMENT BETWEEN THE
GOVERNMENT OF LIBERIA AND THE LIBERIANS UNITED FOR
RECONCILIATION AND DEMOCRACY (LURD) AND THE
MOVEMENT FOR DEMOCRACY IN LIBERIA (MODEL) AND
POLITICAL PARTIES ACCRA, AUGUST 18, 2003

PART FOUR SECURITY SECTOR REFORM

ARTICLE VII DISBANDMENT OF IRREGULAR FORCES, REFORMING AND RESTRUCTURING OF THE LIBERIAN ARMED FORCES

1. The Parties agree that:
 - a. All irregular forces shall be disbanded.
 - b. The Armed Forces of Liberia shall be restructured and will have a new command structure. The forces may be drawn from the ranks of the present GOL forces, the LURD and the MODEL, as well as from civilians with appropriate background and experience. The Parties request that ECOWAS, the UN, AU, and the ICGL provide advisory staff, equipment, logistics and experienced trainers for the security reform effort. The Parties also request that the United States of America play a lead role in organising this restructuring program.
2. The following Principles shall be taken into account in the formation of the restructured Liberian Armed Forces:
 - a. Incoming service personnel shall be screened with respect to educational, professional, medical and fitness qualifications as

well as prior history with regard to human rights abuses;

- b. The restructured force shall take into account the country's national balance. It shall be composed without any political bias to ensure that it represents the national character of Liberia;
 - c. The Mission of the Armed Forces of Liberia shall be to defend the national sovereignty and in extremis, respond to natural disasters;
 - d. All Parties shall cooperate with ECOWAS, the UN, the AU, the ICGL and the United States of America.
3. All Parties together shall organise Information, Education and Communication (IEC) programs to sensitise the Liberian public as to the mission and activities of the restructuring plan.

Annex B: IDIQ Contract (S-LMAQM-03-00034)

NEXT PAGE

Source: U.S. Department of State, <http://www.state.gov/documents/organization/136426.pdf> (accessed 21 June 2011)

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RELEASED IN PART 1

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED OFFER LIVOLA DPAS (15 CFI 300)		RATING B2, B4		PAGE OF 1 OF 90 PAGES	
2. CONTRACT NO. S-LMAQM-03-C0034		3. SOLICITATION NO. S-LMAQM-03-R0035		4. TYPE OF SOLICITATION <input checked="" type="checkbox"/> SEALED BIDDING <input type="checkbox"/> NEGOTIATED OFFER		5. DATE ISSUED 01/23/2003	
6. ADDRESS OFFER TO (If other than Code 2)				7. ADDRESS FOR PURCHASE NO.			
Department of State Office of Acquisition Management (A/LM/AQM/IP) P.O. Box 9115, Rosslyn Station Arlington, VA 22219				See Section L.8.1			

NOTE: In sealed bid solicitations "offer" and "offers" mean "bid" and "bids".

8. Sealed offer - Original and 5 copies for handling the supplies or services in the Schedule will be received at the place specified in item 9, until 15:00 local time 02/24/2003				
9. Location, in the Department located in 1701 N. Ft. Myer Dr. Arlington, VA				
CAUTION - Late Submissions, Modifications, and Withdrawals: See Section L, Paragraphs 52.214-7 or 52.215-10. All offers are subject to all terms and conditions contained in this solicitation.				
10. FOR INFORMATION CALL: A. NAME James S. (Steve) Rogers B. TELEPHONE NO. (Include area code) AND COLLECT CALLS (703) 875-7320				
11. TABLE OF CONTENTS				
✓ 1. SEC.	DESCRIPTION	PAGES	DESCRIPTION	PAGES
✓ A	SOLICITATION/CONTRACT FORM	1	CONTRACT CLAUSES	5
✓ B	SUPPLIES OR SERVICES AND PRICES/COSTS	5	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.	
✓ C	DESCRIPTION/SPECIFICATION STATEMENT	5	✓ J	LIST OF ATTACHMENTS
✓ D	PACKAGING AND MARKING	2		
✓ E	INSPECTION AND ACCEPTANCE	3		
✓ F	DELIVERIES OR PERFORMANCE	3	✓ K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS
✓ G	CONTRACT ADMINISTRATION DATA	4	✓ L	INSTRY, COMMOD., AND NOTICES TO OFFERORS
✓ H	SPECIAL CONTRACT REQUIREMENTS	12	✓ M	EVALUATION FACTORS FOR AWARD

OFFER (Must be fully completed by offeror)			
12. Does not apply if the solicitation includes the provisions at 52.214-10, Minimum Bid Acceptance Period.			
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)			
30 CALENDAR DAYS	0 %	20 CALENDAR DAYS	0 %
10 CALENDAR DAYS	0 %	10 CALENDAR DAYS	0 %
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amend. query to the SOLICITATION for offerors and related documents answered and filed)			
AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
A001	05 Feb 2003	A003	12 Feb 2003
A002	11 Feb 2003	A004	20 Feb 2003
15A. NAME AND ADDRESS OF OFFEROR		15B. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (If you are not)	
DynCorp International LLC 6500 West Freeway, Suite 000 Fort Worth, TX 76116-2187 DUNS: 608-48-1898		Stephen J. Gannon President, DynCorp International LLC	
15C. TELEPHONE NO. (Include area code) (817) 737-7513		17. SIGNATURE <i>Stephen J. Gannon</i>	
15D. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE		18. OFFER DATE MAY 14, 2003	

19. ACCEPTED AS TO TERMS NUMBERED N/A		20. PAYMENT 5 IDIQ		21. ACCOUNTING AND APPROPRIATION PER TASK ORDER	
22. AUTHORITY FOR USING OTHER THAN PER TASK ORDER OPEN COMPETITIVE		23. LIMITED INVOICES TO REQUEST BIDDING PER TASK ORDER		24. PAYMENT WILL BE MADE BY PER TASK ORDER	
25. ADMINISTERED BY (If other than Item 2)		26. LIMITED STATES OF AWARD		27. AWARD DATE 5/27/2003	
28. CONTRACTING OFFICER (Type or print)		29. LIMITED STATES OF AWARD		30. AWARD DATE	
JAMES S. ROGERS		<i>James S. Rogers</i>		5/27/2003	

NOTE: Award will be made on this form, or on Standard Form 28, or by other authorized official verification.

NEW FORM 01-157-0004 PREVIOUS EDITIONS NOT USABLE

STANDARD FORM 33 REV. 4-83 PROVIDED BY GSA FPMR (41 CFR) 101-11.6

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: CHARLES E LAHIGUERA
DATE/CASE ID: 06 SEP 2007 200604275

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Peacekeeping/Capacity Enhancement/Surveillance Efforts - African Continent
S-LMAQM-03-C0034
Section B

SECTION B SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 The Contractor shall perform any and all services required for Peacekeeping, Capacity Enhancement and Surveillance Efforts within the continent of Africa. The specific projects and scopes of work shall be tasked, via task order, in writing by the Contracting Officer and shall be in conformance with the contract clauses and special conditions contained herein.

The professional services to be provided will include, but are not limited to, logistics, transportation of personnel, training of host country personnel, supply and establishment of field operations/services, maintenance, communications, and any other related service necessary to meet the department's needs, as well as administration and coordination of the various disciplines involved. See Section C for the Statement of Work.

B.2 This is an Indefinite Quantity/Indefinite Delivery contract containing fixed hourly rates. The term of Contract S-LMAQM-03-C0034 is one base year, with four, 12-month option years to be renewed at the government's discretion. The contract may be renewed by modification under the same terms and conditions as the base year, except as provided in section B.5 Prices/Costs). The actual amount of work to be performed, the time of such performance, the deliverables, and the location of the work will be determined by the Contracting Officer, who will issue executed task orders to the Contractor. The only work authorized under this contract is that which is performed after receipt of such task orders and a written Notice to Proceed (NTP) from the Contracting Officer. A written NTP may be transmitted by facsimile or electronic mail (e-mail).

B.3 The Contractor shall, upon receipt of a duly executed task order, perform all services as required in this contract and such further requirements as may be contained in task orders for projects described therein. The Contractor shall complete all work and services under this contract within the period of time specified in task orders, except that no task order shall be issued hereunder after the expiration of this contract. Performance, the deliverables, and the location of the work will be task order specific.

B.4 The Government makes no guarantee as to the number of orders, or actual amount of services which will be requested above the guaranteed minimum value of \$5,000,000.00 for the life of the contract (1 base year plus all four option years).

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Peacekeeping/Capacity Enhancement/Surveillance Efforts - African Continent
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Section B

B.4.1 If two or more contracts are awarded under this solicitation, the Government reserves the right to compete or assign individual task orders to a particular contractor.

B.4.2 The maximum dollar value for the life of this contract (1 base year plus all four-option years) is \$100,000,000.00.

B.4.3 The minimum value for the contract that is exercised is \$5,000,000.00 for the life of the contract (1 base year plus all four-option years).

B.4.4 The minimum dollar value of any awarded task order is \$50,000.00 and the maximum amount of any awarded task order is \$5,000,000.00 (Refer to Section I, Contract Clause 52.216-19, Ordering Limitation.) These limits may be waived by bilateral agreement between the government and the awarded contractor.

B.4.5 Reserved

B.4.6 The Prime contractor shall not subcontract more than 50% of the total value of this contract.

B.5 PRICES/COSTS

The Contractor shall provide professional services as directed by individual task orders executed by the Contracting Officer. In establishing the prices for individual task orders, the rates for the required services shall be in accordance with the fixed fully burdened hourly labor rates submitted by the Offeror (See B.5.1).

B.5.1 The Offeror shall submit a Cost Volume that contains unburdened direct hourly rates for each professional category, as

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Peacekeeping/Capacity Enhancement/Surveillance Efforts - African Continent
S-LMAON-03-C0034
Section 8

well as fully burdened hourly rates for each labor category of each required discipline. The burdened rates shall include direct hourly rates, overhead, G&A, profit, and all employee fringe benefits, such as retirement, withholding for FICA and taxes (NOTE: DBA Insurance is not to be included in the burdened rate), unemployment, workman's compensation, etc. Submit these rates in the form of a chart, detailing each component of the burdened rate. Please include a rate for any category you feel which may be utilized during the performance of Task Orders under this contract. All rates shall be submitted for each of the basic years and each option year. The submission of the option year rates shall not bind the Government to exercising the option year, nor should it be construed by the Offeror as the Government's intention to do so. Submit the same information for all proposed subcontractors, if possible.

B.5.2 Submit a legend depicting the individual labor category and its requirement (e.g., Project Manager - 10 to 12 years relative experience, minimum of 4 year degree(s), X certification(s)).

B.5.3 Submit a copy of the most recent audit completed on your company by another Government agency. If a copy cannot be provided, please provide the cognizant agency's name and a contact point.

B.5.4 For cost/price evaluation under this contract, see Section L, M and Appendix I. For evaluation purposes under this contract, the prices submitted in accordance with Appendix I will be analyzed. The rates used in Appendix I will be extracted from the Cost Volume submitted in accordance with B.5.1 and B.5.2 and same shall be affixed to Section B of the resulting contract.

NOTE: Following the completion of negotiations and prior to the award of any Task Order, you will be required, where necessary, and if not waived by the Contracting Officer, to complete a Certificate of Current Cost and Pricing Data.

B.6 COST OF MATERIALS/EQUIPMENT

The cost of any materials or equipment required to be furnished and used in conjunction with the services rendered herein, shall be included in the price of each task order unless otherwise noted in the task order.

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Peacekeeping/Capacity Enhancement/Surveillance Efforts - African Continent
S-LMAGM-03-C0034
Section B

B.7 TRAVEL

In determining the cost of travel, the terms and conditions of the Federal Travel Regulations/Joint Travel Regulation (FTR/JTR) shall apply to all travel and travel-related matters authorized under this contract; travel and travel-related expenses shall not exceed the maximum allowable under the FTR/JTR. In connection with authorized travel, the following items may be included in the price of the task order:

(i) The cost of domestic economy-class (coach) air fare; (ii) the cost of hotel or housing accommodations, meals, and other incidentals when travel is undertaken; and (iii) miscellaneous expenses incurred in connection with the travel. For international travel, see Section H.14 Reimbursable Expenses.

B.8 GOVERNMENT-FURNISHED PROPERTY

Government furnished property, if provided, will be identified in any issued or executed task order.

B.9 DEFENSE BASE ACT INSURANCE COST

The requirements of the Defense Base Act apply to this contract and any subcontracts under this contract. The Contractor shall provide Defense Base Act (DBA) insurance coverage in accordance with FAR clause 52.228-03 Workers' Compensation Insurance (Defense Base Act). Rates for DBA will be task order specific.

B.10 DEFINITIONS

In this contract, the terms Contractor or Prime Contractor are used interchangeably unless the context indicates otherwise. Each shall mean the Contractor identified on Cover sheet of this contract.

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Annex C: Contract Amendment (raises contract ceiling)

NEXT PAGE

Source: U.S. Department of State, <http://www.state.gov/documents/organization/136427.pdf> (accessed 21 June 2011)

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OMB Approved 3280-0062


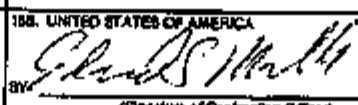
AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE	PAGE OF PAGES 1
2. AMENDMENT/MODIFICATION NO. Three (3)	3. EFFECTIVE DATE March 30, 2005	4. REQUISITION/PURCHASE REQ. NO. N/A	5. PROJECT NO. (if applicable)
6. ISSUED BY S. Department of State Office of Acquisition P.O. Box 9115, Rosslyn Station Arlington, VA 22219	7. ADMINISTERED BY (if other than (6))	CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No. Street, county, State and ZIP Code) DynCorp International, LLC 6500 West Freeway, Suite 600 Ft. Worth, TX 76116-2187		(4)	9A. AMENDMENT OF SOLICITATION NO.
			9B. DATED (SEE ITEM 11)
		X	10A. MODIFICATION OF CONTRACT/ORDER NO. S-LMAQM-C3-C-0034
			10B. DATED (SEE ITEM 13) May 27, 2003
CODE	FACILITY CODE		
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS			
<input type="checkbox"/> The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of offers <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offerors must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 10, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.			
12. ACCOUNTING AND APPROPRIATION DATA (if required) N/A			
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.			
THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT/ORDER NO. IN ITEM 10A.			
14. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, expiration date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.101(a). 15. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: X Mutual Agreement of the Parties 16. OTHER (Specify type of modification and authority)			

E. IMPORTANT: Contractor ☐ is not, X is required to sign this document and return 3 copies to the issuing office.

4. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

The purpose of this modification is to increase the five year ceiling amount on subject contract from \$100,000,000 to \$500,000,000 through the end of the period of performance which is May 26, 2008, if all options are exercised.

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remain unchanged and in full force and effect.

17A. NAME AND TITLE OF SIGNER (Type or print) Timothy J. Crawley VP Contracts Management		17B. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Edward G. Muller Contracting Officer	
17C. CONTRACTOR/OFFICER  (Signature of person authorized to sign)	17D. DATE SIGNED 4/5/05	17E. UNITED STATES OF AMERICA BY  (Signature of Contracting Officer)	17F. DATE SIGNED MAR 22 15
NSN 7540-01-152-8970 PREVIOUS EDITION UNUSABLE		32-103 STANDARD FORM 30 (REV. 10-83) Prescribed by GSA FAR (48 CFR) 53.243	

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GSA Approved Form 30

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE PAGE OF PAGES

2. AMENDMENT/MODIFICATION NO. 3. EFFECTIVE DATE 4. REQUISITION/PURCHASE REQ. NO. 5. PROJECT NO. (if applicable)

6. ISSUED BY CODE 7. ADMINISTERED BY (if other than item 6) CODE

Department of State
 Office of Acquisition
 Box 9115, Rosslyn Station
 Arlington, VA 22219

8. NAME AND ADDRESS OF CONTRACTOR (Full Street, City, State and ZIP Code)

DynCorp International, LLC
 6500 West Freeway, Suite 600
 Fort Worth, Texas 76116-2187

(4) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED (SEE ITEM 11)

10A. MODIFICATION OF CONTRACT/ORDER NO.

X S-LMAOM-03-C-0034

10B. DATED (SEE ITEM 11)

May 27, 2003

CODE FACILITY CODE

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of offers ☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (if required)

N/A

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(4) 13B CHANGE ORDER (IS ISSUED PURSUANT TO: (Specify Authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT/ORDER NO. IN ITEM 10A.

B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 48.102(b).

C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

D. OTHER (Specify type of modification and authority)

X FAR 52.217-09 OPTION TO EXTEND THE TERM OF THE CONTRACT

E. IMPORTANT: Contractor is not required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

The purpose of this modification is to exercise Option Year Two of subject contract effective May 27, 2005 through May 26, 2006.

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remain unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)

15B. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

Edward G. Muller
 Contracting Officer

15B. CONTRACTING OFFICER

15C. DATE SIGNED

15D. UNITED STATES OF AMERICA

15E. DATE SIGNED

(Signature of person authorized to sign)

BY *Edward G. Muller*
(Signature of Contracting Officer)

May 19, 2005

NSN 7540-01-182-8070
 PREVIOUS EDITION UNUSABLE

30-106

STANDARD FORM 30 (REV. 10-83)
 Prescribed by GSA
 FAR (48 CFR) 51.243

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SENT BY: DYNCORP;

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PAGE 2/2

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AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE	PAGE OF PAGES
2. AMENDMENT/MODIFICATION NO. One (1)	3. EFFECTIVE DATE See Block 16c	4. ACQUISITION/PURCHASE REQ. NO. N/A	5. PROJECT NO. (If applicable)
6. ADMINISTERED BY (If other than Item 4) U.S. Department of State Office of Acquisition Management P.O. Box 9115, Rosslyn Station Arlington, VA 22219		CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and ZIP Code) DynCorp International LLC 5500 West Freeway, Suite 600 Ft. Worth, TX 76116-2187		10A. AMENDMENT OF SOLICITATION NO. 10B. DATED (MM/DD/YY) 10C. MODIFICATION OF CONTRACT/ORDER NO. S-LMAQM-03-C-0034 10D. DATED (MM/DD/YY) May 27, 2003	
CODE	FACILITY CODE		

RELEASED IN PART
B4

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of offers ☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation as extended, by one of the following methods:
 (a) by completing Forms 8 and 10, and returning copies of the amendment; (b) by acknowledging receipt of this amendment on each copy of the offer submitted; or (c) by separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram, or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

N/A

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS,
IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103 (b).
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY ON
X Mutual Agreement of the Parties.
D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return 3 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

PLEASE SEE ATTACHED

Except as provided herein, all terms and conditions of the documents referenced in Item 5A or 10A, as hereinafter changed, remain unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) Charles C. Cannon, Jr. VP, ITS	15B. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Colleen M. Kosar Contracting Officer
15C. DATE SIGNED 19 Mar 04	15D. DATE SIGNED 3 30 04
15E. SIGNATURE OF CONTRACTING OFFICER Colleen M. Kosar	

IN 7540-01-103-0070

REVISOR EDITION UNCLASSIFIED

50-104

STANDARD FORM 28 (REV. 10-83)
Prescribed by GSA
FPMR (41 CFR) 101-11.6

UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: CHARLES E LAHIGUERA
 DATE/CASE ID: 06 SEP 2007 200604275

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AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE	PAGE OF PAGES
2. AMENDMENT/MODIFICATION NO. Five (5)	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO. N/A	5. PROJECT NO. (if applicable)		
6. ISSUED BY U.S. Department of State Office of Acquisition P.O. Box 9115, Rosslyn Station Arlington, VA 22219		7. ADMINISTERED BY (if other than item 6) CODE			
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and ZIP Code) DynCorp International, LLC 6500 West Freeway, Suite 600 Fort Worth, Texas 76116-2187			9A. AMENDMENT OF SOLICITATION NO.		
			9B. DATED (SEE ITEM 12)		
			10A. MODIFICATION OF CONTRACT/ORDER NO. S-LMAQM-03-C-0034		
			10B. DATED (SEE ITEM 12) May 27, 2003		
CODE			FACILITY CODE		
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS					
<input type="checkbox"/> The above numbered solicitation is amended as set forth in item 6. The hour and date specified for receipt of offers <input type="checkbox"/> is extended; <input type="checkbox"/> is not extended.					
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.					
12. ACCOUNTING AND APPROPRIATION DATA (if required) N/A					
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.					
14. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.					
X 15. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103 (D).					
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:					
D. OTHER (Specify type of modification and authority)					
E. IMPORTANT: Contractor <input checked="" type="checkbox"/> is not <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.					
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)					
The U.S. Army Corp of Engineers, North Atlantic Division is hereby authorized to place delivery orders against Contract S-LMAQM-03-C-0034 with DynCorp. The maximum order limitation will not exceed \$10,000,000 per order. Only the below named contracting officer is hereby authorized to place orders against subject contract for the U.S. Army Corp of Engineers, North Atlantic Division.					
Bethany A. Mills					
Except as provided herein, all terms and conditions of the document referenced in item 8A or 9A, as heretofore changed, remain unchanged and in full force and effect.					
15A. NAME AND TITLE OF SIGNER (Type or print)		15B. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Colleen M. Kosar Contracting Officer			
15C. DATE SIGNED		15D. UNITED STATES OF AMERICA		15E. DATE SIGNED	
(Signature of person authorized to sign)		BY Colleen M. Kosar (Signature of Contracting Officer)		8/1/03	
NSN 7540-01-152-8070 PREVIOUS EDITION UNUSABLE		10-105		STANDARD FORM 30 (REV. 10-83) Prescribed by GSA FAR (48 CFR) 50.243	

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AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE	PAGE OF PAGES
2. AMENDMENT/MODIFICATION NO. Six (6)	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REG. NO.	5. PROJECT NO. (if applicable)
6. ISSUED BY U.S. Department of State Office of Acquisition P.O. Box 9115, Rosslyn Station Arlington, VA 22219		7. ADMINISTERED BY (if place then item 8)	CODE
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)		9A. AMENDMENT OF SOLICITATION NO.	
DynCorp International, LLC 6500 West Freeway, Suite 600 Fort Worth, Texas 76116-2187		9B. DATED (SEE ITEM 11)	
		10A. MODIFICATION OF CONTRACT/ORDER NO.	
		E-LMAOM-03-C-0034	
		10B. DATED (SEE ITEM 11)	
CODE		FACILITY CODE	
		May 27, 2003	
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS			
<input type="checkbox"/> The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of offers <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or so amended, by one of the following methods: (a) By completing items 8 and 10, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.			
12. ACCOUNTING AND APPROPRIATION DATA (if required)			
N/A			
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.			
<input checked="" type="checkbox"/> A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A. <input checked="" type="checkbox"/> B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in pricing office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b). <input type="checkbox"/> C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: <input type="checkbox"/> D. OTHER (Specify type of modification and authority)			
E. IMPORTANT: Contractor <input checked="" type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.			
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Described by UIC number headings, including solicitation/contract subject matter where feasible)			
The below named Contracting Officers are hereby authorized to place orders against subject contract for the U.S. Army Corps of Engineers, North Atlantic Division.			
Leslie L. Bearden Theodore M. Runzog			
EXCEPT AS PROVIDED HEREIN, ALL TERMS AND CONDITIONS OF THE DOCUMENT REFERENCED IN ITEM 9A OR 10A, AS HERETOFORE CHANGED, REMAINS UNCHANGED AND IN FULL FORCE AND EFFECT.			
15A. NAME AND TITLE OF SIGNER (Type or print)		15B. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
		Colleen M. Kosar Contracting Officer	
15C. CONTRACTOR/OFFEROR		15D. DATE SIGNED	
(Signature of person authorized to sign)		BY Colleen M. Kosar (Signature of Contracting Officer)	
		15E. DATE SIGNED	
		13 14 05	

NSM 7340-01-152-4039
PREVIOUS EDITION UNUSABLE

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STANDARD FORM 30 (REV. 10-83)
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FAR (48 CFR) 53.243

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Annex D: Liberia Military DDR-SSR Program Timeline

<i>January 2003</i>	DynCorp International (DynCorp) and Pacific Architects and Engineers (PAE) are both awarded a State Department five-year IDIQ contract to support peacekeeping and security efforts in Africa (contract solicitation number S-LMAQM-03-C-0034, see Annex B). Its minimum guaranteed expenditure is \$5 million and maximum is \$100 million, later expanded to \$500 million (see Annex C).
<i>August 2003</i>	Charles Taylor flees Liberia and 1,000 ECOWAS peacekeepers and 200 US troops arrive. The interim government and rebels sign the CPA (see Annex A). Gyude Bryant is chosen to head the NTGL under the title 'Chairman' rather than 'President'.
<i>September–October 2003</i>	US forces pull out, and UNMIL begins the peacekeeping mission, deploying thousands of troops and encompassing the ECOWAS forces.
<i>December 2003</i>	UNMIL begins DDRR for rebel combatants only. AFL personnel are disarmed, but not demobilized, rehabilitated and reintegrated. After riots at one DDRR site, UNMIL shuts down the program.
<i>January 2004</i>	US sends a six-person SSR pre-assessment team to Liberia, 21–29 January. The United States is responsible for the SSR of the AFL, as agreed to at Accra during peace talks. The State Department is the lead agency within the US government.
<i>February 2004</i>	International donors pledge more than \$500 million in reconstruction aid to Liberia.
<i>April 2004</i>	UNMIL commences the DDRR process and it continues without serious incident. UNMIL also begins SSR for civilian elements of the security sector, such as the Liberian national police. State Department plans a SSR assessment mission to Liberia involving State Department, DOD and contractors.
<i>May 2004</i>	State Department leads a ten-day assessment mission of SSR for the AFL. The team consists of experts drawn from State Department, DOD and two contractor teams: DynCorp and PAE. Additionally, PAE subs MPRI owing to its PMC expertise (PAE is a GC firm whereas DynCorp and MPRI are PMCs with relevant SSR expertise). DDR of the AFL is not considered because the NTGL is responsible for this. A member of the assessment team is murdered in his hotel room while being robbed.
<i>June 2004</i>	DOD determines it cannot conduct the SSR program and State Department decides to outsource the SSR program entirely to the private sector. Accordingly, it asks both DynCorp and PAE to submit their assessments and recommendations for SSR.

<i>July 2004</i>	After reviewing the assessments, State Department decides to divide SSR responsibilities between the two companies based their expertise. DynCorp is responsible for reconstituting the AFL and MOD. PAE is tasked with constructing most of the military bases and also provide specialty training, equipment, logistics and base services.
<i>September 2004</i>	State Department tenders a task order RFP and SOW to DynCorp and PAE entitled 'Liberia Security Sector Reform'. The SOW states that they must create a 2,000 person military, scalable to 4,300 personnel if funding permits, and an MOD.
<i>October 2004</i>	DynCorp and PAE submit their proposals to State Department on October 7. State Department awards the task order to both companies with a division of labour as outlined in July. DynCorp is required to be on the ground initially with PAE to follow once sufficient units are fielded. Riots in Monrovia leave 16 people dead; UNMIL says former combatants and AFL veterans were behind the violence.
<i>January 2005</i>	State Department authorizes DynCorp to deploy a small planning team to Liberia to engage stakeholders and design the SSR program. It becomes clear that the NTGL lacks the capacity to conduct DDR of the AFL and State Department asks DynCorp to take on this task. UNMIL imposes a curfew on several southeastern provinces owing to ritual human sacrifices and cannibalism, including the involvement of provincial governors.
<i>February-March 2005</i>	Consultations with major stakeholders regarding the mission and composition of the future AFL. This includes civil society, the standing AFL, former warring parties and political factions, UNMIL, the NTGL, civil society through the NTGL and other entities. A comprehensive recruiting and vetting plan is devised intended to screen out human rights abusers from joining the AFL.
<i>April 2005</i>	The NTGL releases its AFL Restructuring Policy. Consultations with stakeholders continue. Topics include mission and force structure of the future AFL, location of training bases, sensitization campaign for civil society and arrears owed unpaid AFL veterans.
<i>May 2005</i>	The demobilisation plan is drafted and presented to Chairman Bryant. He signs Executive Order Number Five on May 15, authorizing the full demobilisation of all legacy AFL units as of 30 June 2005. State Department issues DynCorp a formal task order for the demobilisation of the AFL, releasing full payment to the contractor. DynCorp makes preparations for DDR operations outside of Monrovia and plans to conduct the demobilisation, recruiting staff both locally and internationally, and builds up their program (and presence) in Liberia. PAE is to begin its portion of the program once training commences.
<i>July 2005</i>	DynCorp builds a demobilisation site outside Monrovia. The demobilisation and reintegration of the legacy soldiers commences. The US government approves DynCorp's blueprint for the new AFL's force

	<p>structure and TO&E in Washington, DC.</p> <p>Construction of AFL training facilities starts but is slowed by the heavy rainy season.</p>
<i>September 2005</i>	The NTGL agrees to allow the international community to supervise its finances in an effort to reduce corruption.
<i>October 2005</i>	Recruiting and vetting for the new AFL begins. Over 12,000 applicants will be processed in the two years to come.
<i>November 2005</i>	Ellen Johnson-Sirleaf becomes the first woman to be elected as an African head of state. She takes office the following January.
<i>December 2005</i>	Construction of the new training base remains suspended as Liberia, the United States and UNMIL debate over its location, costing the program money and time.
<i>January 2006</i>	<p>DDR of 13,770 AFL soldiers finishes. Recruiting and vetting begins at the Barclay Training Center (BTC) in downtown Monrovia.</p> <p>Johnson-Sirleaf is sworn in as president and the NTGL is no more. Brownie Samukai replaces Daniel Chea as Liberian Minister of Defence.</p>
<i>February 2006</i>	The demobilisation of the AFL is successfully completed, perhaps the first time in modern African history that an entire standing military was safely demobilized without significant incident.
<i>March 2006</i>	Johnson Sirleaf calls for Nigeria to hand over Taylor, which it does. Upon his arrival in Monrovia, he was transferred to the custody of UNMIL and immediately flown to Sierra Leone to stand trial before the UN-backed Sierra Leone Special Court on charges of crimes against humanity.
<i>April 2006</i>	<p>MOD transformation begins at BTC. 400–500 former AFL soldiers conduct a violent protest outside the MOD, claiming nonpayment of salary arrears and retirement benefits, and clash with UNMIL peacekeepers sent to contain the unrest.</p> <p>Taylor appears before the Sierra Leone Special Court.</p>
<i>May 2006</i>	Samukai spends a week in Washington, DC with State Department, DOD and DynCorp to discuss the progress of SSR and formulation of the Liberian National Defence Strategy.
<i>June 2006</i>	<p>State Department issues an updated SOW. DynCorp assists the MOD in a first draft of the national defence strategy. It is written based on the concept of human security, seeking to align the AFL's mission with the goals of development for durable stability and security.</p> <p>Progress is limited because the NTGL, UNMIL, the United States and others are delayed with the national security strategy. The UN Security Council eases a ban on weapons sales so that Liberia can import small arm for government purposes only. An embargo on Liberian timber exports is lifted shortly afterward.</p>

	<p>A TRC is set up to investigate human rights abuses between 1979 and 2003. Tensions transpire between the TRC and SSR program as the TRC requests access to SSR vetting records, but the SSR team denies this request since it might compromise sources and methods, possibly resulting in reprisal killings of victims who spoke to the SSR vetting team on condition of anonymity about human rights abuses of some AFL candidates.</p> <p>The ICC at The Hague agrees to host Taylor's trial.</p>
<i>July 2006</i>	<p>The first class of AFL basic training or IET begins at BTC. It comprises 110 candidates, most of whom are selected for their leadership potential to fill the leadership ranks first.</p> <p>The former US Voice of America transmitter site is finally selected as the AFL's main training base, located at Careysburg and rechristened the Sandee S. Ware Military Barracks. DynCorp begins construction once the occupying UNMIL units move offsite. Construction is slowed by the heavy rainy season.</p> <p>DynCorp begins the process of purchasing and importing arms into Liberia for the AFL.</p> <p>President Johnson-Sirleaf switches on generator-powered street lights in the capital, which has been without electricity for fifteen years.</p>
<i>August 2006</i>	DynCorp orchestrates the first major shipment of arms, which arrives at Monrovia for the AFL. It is the first legal shipment in over fifteen years.
<i>November 2006</i>	The first AFL basic training class of 102 graduates. AFL training of future classes is halted owing to US funding shortfalls.
<i>March 2007</i>	119 civilian MOD employees graduate a seventeen-week SSR program training course. Following this the MOD reform program is prematurely terminated owing to US funding shortfalls.
<i>April 2007</i>	The UN Security Council votes to lift its ban on Liberian diamond exports. The ban was imposed in 2001 to stem the flow of blood diamonds, which helped fund the civil war.
<i>May 2007</i>	The United Nations urges Liberia to outlaw trial by ordeal.
<i>June 2007</i>	Taylor's war crimes trial begins at The Hague, where he stands accused of instigating atrocities in Sierra Leone.
<i>September 2007</i>	639 total trained. Owing to cost overruns, State Department shortens IET from eleven weeks to eight weeks by cutting three weeks that were devoted to human rights, civics, and laws of war training.
<i>January 2008</i>	1,124 total trained.
<i>April 2008</i>	1,634 total trained.
<i>September</i>	2,113 total trained.

<i>2008</i>	
<i>2009</i>	PAE conducts unit training for the battalions culminating in an ARTEP.
<i>December 2009</i>	The TRC releases its final report.
<i>January 2010</i>	<p>DynCorp's and PAE's contract for SSR ends and a team of sixty US Marines begin a five-year mentorship program with the AFL in Operation Onward Liberty.</p> <p>In a new task order (worth \$20 million if all options are exercised), DynCorp is selected to provide the AFL with operations and maintenance services. This task order is awarded under the new five-year State Department IDIQ contract called the Africa Peacekeeping Program (AFRICAP), contract solicitation number SAQMMA08R0237. Awardees under AFRICAP include DynCorp International, PAE Government Services, AECOM and Protection Strategies Incorporated.</p>

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