Deborah Avant: 
Private security contracting undermines democratic control of U.S. foreign policy.

In September 2007, armed guards assigned to protect U.S. diplomats and employed by the private security company Blackwater USA opened fire in crowded Nisour Square in central Baghdad. The incident wounded 24 and left 17 Iraqi civilians dead, including an infant. In the wake of the shooting, the press erupted with stories about how dependent the U.S. military had become on “mercenaries”, particularly in Iraq. Some of the coverage focused on the contractors’ aggressive tactics and how they threaten to undermine the campaign to win “hearts and minds” in Iraq. Other articles concentrated on the lack of effective oversight and legal accountability of private security forces. Still others focused on Blackwater’s political connections and practices. But very few examined the larger question of what hired guns might do to democratic governance in the United States.

In recent years, scholars and policymakers have converged on the view that democracy is a key variable for predicting both the internal and external behavior of states. Many argue that political norms favoring nonviolent solutions and citizen participation in governance make it harder for leaders in democracies to steer the ship of state into war. Others claim that democracies, once engaged in a fight, are more likely to win since they more carefully calculate the benefits and costs of military action. Perhaps most prominently, democratic peace theory is taken virtually as a “law” throughout both government and the academy.

These arguments all assume that states fight with militaries made up of their own citizenry. The past two decades, however, have seen the rise of a robust market for private security forces, which can now provide virtually any military or security service. Contract personnel make up at least half of those deployed to Iraq on behalf of the United States—about 190,000 people as of an August 2008 Congressional Budget Office (CBO) report. These contractors provide everything from logistics support to training for the Iraqi army and police, from guarding buildings and people to conducting interrogations and providing translation, and on and on—all duties formerly provided by uniformed soldiers. The number of contractors performing duties once provided by the U.S. military is greater than the number of U.S. troops in Iraq.

The vast majority of these contractors (or private soldiers) are retired military or police personnel. Roughly 10 percent are Americans; the United Kingdom, South Africa, Fiji, El Salvador and Nepal account for 20 percent, and Iraq itself for roughly 70 percent. They are employed by some 632 private security companies (PSCs) from many different...
countries that bid on contracts and hire from databases or through recruiting to fill them. When the contract ends, the personnel move on to work for different PSCs fulfilling other contracts. PSCs are more like body shops than private armies. They have no standing force but recruit once they acquire contracts, acting as matchmakers between personnel with particular skills and contracting governments, corporations, non-governmental groups or other organizations.

Before European states toyed with ideas of democracy, mercenary armies were common. But Enlightenment ideas about the social contract, so fundamental to democratic principles, fostered the idea that citizenship should be connected with military service. Even though different countries have adopted different levels of obligation, the principle that military service should be performed by citizens has been almost universal among democratic nations. Indeed, this principle upholds such key features of democracy as constitutional checks and balances, policy transparency and public sensitivity to the human costs of war. When conscription was a feature of U.S. wartime mobilization, constituents were more likely to pressure their Congressmen to justify wars. The public demanded accountability as the human costs—lives of friends and family members interrupted or lost—were more widely distributed.

By contrast, PSCs recruit people to "do a job" rather than "provide military service." Those deployed this way can walk away at any time. As noted, they need not be U.S. citizens. They are not organized within congressional constituencies and, given that they are often not even American citizens or residents, they may have little connection to individual Americans. So, in theory at least, this arrangement weakens congressional incentives to check the Executive Branch and masks the human costs of war.

This conclusion applies equally to those who provide logistics, training, guard duty or any other service that would otherwise be provided by the military. When a soldier dies, we do not ask whether he was a supply sergeant or
an infantryman. Both are crucial to the war effort, both have died in service to the country's goals, and both exact costs from the public treasury. Though we might agree that an armed guard faces greater risks than a cook, there is no reason why privatizing one job rather than the other matters to these democratic processes in a wartime setting. Insofar as privatization limits congressional input and reduces the information available to the public, it diminishes democratic controls over foreign policy.

That's the theory. But how does the use of private security contractors undermine government checks and balances in practice? As expected, it empowers the Executive Branch and significantly erodes the power of the Congress. Though Congress must authorize the deployment of uniformed troops, it need not authorize—or even know about—the deployment of private contractors, no matter what kind of service they provide. Congressional involvement is important. Think of the debate about President George W. Bush's 20,000-troop surge in early 2007. Contrast that with the politically invisible mobilization of a much larger surge of private soldiers as the insurgency heated up in the spring of 2004. That the number of contractors deployed by the United States in Iraq rivals the number of troops has come to pass without any congressional authorization or input.

Once contractors are deployed, it is harder for Congress to monitor what they actually do. Many reporting mechanisms to Congress provide no data about individual contracts, individual companies or even whether a particular mission involves troops alongside contractors. Without this information, it is very difficult, sometimes impossible, for Congress to assess the performance of different companies or the policy ends they serve.

Congress may be reluctant to assume control over contractors in any event. With little constituent knowledge about the role of PSCs in Iraq, many in Congress have felt little need to address the issue. Note that no one in the debate over bringing "our troops" home has mentioned a word about what to do with the nearly equal number of private security contractors. The budgetary and policy implications of "getting our troops out of Iraq", however, will depend on whether private security forces employed by the United States remain. A decrease in military force levels might actually mean a greater need for private contractors.

Congress has taken some steps to gain greater control over contractors in Iraq in response to the outcry over several egregious events. For instance, after four Blackwater personnel were killed and mutilated in Fallujah in March 2004, and after the contractors CACI and Titan were implicated in the abuses at Abu Ghraib prison, Congress required that the Pentagon find a way to keep count of the number of private personnel in Iraq, plugged one obvious legal loophole that prevented the prosecution of contractors alleged to have committed abuses at the prison, and issued several other instructions to bring contractors under tighter control. Thus far, however, these reforms have fallen short of their goal—as we saw in the aftermath of the Nisour Square incident. Individual members of Congress—such as then-Senator Barack Obama (D-IL), Senator Jim Webb (D-VA), and Representatives David E. Price (D-NC), Jan Schakowsky (D-IL) and Henry Waxman (D-CA)—have responded with proposals for additional legislation aimed to increase the transparency and accountability of contractors. But even if each of these bills were passed, congressional control over private...
security would still be minimal relative to its control over U.S. military forces.

Private security operations are much less transparent than the use of U.S. troops not only for Congress, but also for the public. The Nisour Square incident prompted a flood of articles on Blackwater and other contractors, but absent high profile events, such coverage is rare. Even in the immediate days after the shooting, the intense media spotlight on Blackwater paled in comparison to the more intense, ongoing focus on U.S. troops. From the beginning of the war through the first quarter of 2007, for every one article that mentions private security forces, a private security firm or any other reference to contractors or mercenaries in the New York Times, there are 47 that mention U.S. soldiers or troops.¹

This discrepancy is due in large part to the dearth of information available to the public and the press. There is no central source for facts about the activities of private contractors in Iraq or anywhere else. Indeed, the Pentagon does not even keep track of private security deaths. It is only through insurance claims that we even know that more than 1,200 contractors have been killed in Iraq. We do not know their names, and they are not memorialized in media coverage like the "honor roll" segments on The NewsHour with Jim Lehrer. Finally, access to information on contracts between the U.S. government and private security firms is limited. Freedom of Information Act requests are frequently denied on the grounds that the contracts are with private companies and thus contain proprietary information.

In a recent study funded by the National Science Foundation this author found that Americans also view the motivations of soldiers and private security personnel differently. Soldiers are generally believed to be motivated primarily by patriotism, while private soldiers are seen as motivated primarily by monetary gain. This doesn’t mean people think that private soldiers are greedy; on the contrary, most people assume their need must be dire to volunteer to fight an unpopular American war—especially in the case of non-American private soldiers. This might be why many participants in the study expressed just as much anger or sadness at the deaths of private soldiers as they did at those of U.S. military personnel. If Americans knew more about the use of private security contractors in American wars, they would likely demand greater accountability from the President and Congress regarding their use.

Policy analysts often claim that the obscurity of private security forces reduces "political costs", allowing the Executive Branch to respond more efficiently to security needs. It is true: The use of PSCs does make it easier to take action without public support. But reducing political costs for leaders can increase the general costs to Americans.

American leaders are more likely to respond to calls for action from a few when they do not need to win popular support for it. So it is not surprising that, despite the absence of a strong peer competitor, the U.S. defense budget—including the supplemental requests for the wars in Afghanistan and Iraq—is more than 25 percent larger in real terms than it was in 1968 at the height of the conflict in Vietnam. This amount is as much as the combined defense spending of all the rest of the world combined, according to Richard Betts.² Betts attributes this, in part, to political leaders’ tendency to underestimate the costs of the interventions they champion. PSCs both make this possible and provide fallback options when plans fall short, as they did in Iraq.

Relying on PSCs may also affect U.S. foreign relations. Many of the benefits attributed to democratic governments—their restraint, military effectiveness and peacefulness—are tied to the difficulty of taking action. Less deliberation means more military action. Moreover, it arguably reduces the prudence of U.S. policymakers in picking the nation’s battles—the attribute that makes democratic polities more likely to win the wars that democracies fight. And using PSCs reduces transparency and constitutionalism.

¹This includes the wave of coverage that followed the dramatic killings of Blackwater personnel in Fallujah in 2004 and the implication of CACI and Titan employees in the Abu Ghraib abuses. Data and archives are available from the author.

eroding two factors cited as enhancing the prospect for trust among democracies.

The demand for private security is unlikely to ebb. Though it grew exponentially during the Iraq war, it did not begin with the Bush Administration. The private military industry developed and matured in the 1990s, when it was used to meet humanitarian and peace-enforcement goals that the Clinton Administration worried the public would not support. The security challenges posed by a globalized world have led to the articulation of new goals on both sides of the U.S. political spectrum—some requiring the use of military force—that do not fit easily with the kind of national interest behind which the public is easily mobilized. Pursuit of such goals may generate “democracy deficits”, but ignoring them also creates problems—something the ineffectual international response to the Rwandan genocide made abundantly clear. If PSCs can play a role in humanitarian intervention, many would have no qualms justifying shortcuts in democratic niceties.

Sacrificing democratic procedures, however, is a losing proposition in the end. Political leaders would better serve the public interest by working to bring greater democratic control to the transnational private security industry within the United States and internationally. Initial steps by President Obama are promising. Overcoming the inevitable challenges, however, will require efforts by Congress, relevant agencies in the Executive Branch and cooperation with other countries (something the U.S. government has approached with far too much reluctance in recent years).

But action by states will not be enough. Interested parties should also cultivate new transnational tools. Industry organizations in the United States and the United Kingdom have proposed voluntary regulation for PSCs, but much more could be done to set standards, not just for companies but for personnel based on the kind of service they provide. At a minimum, anyone working in a war zone should be required to have training and be familiar with international humanitarian law. Why not develop international standards for the licensing of individuals who work in conflict zones more generally? The United States, as the largest consumer of private military services, would surely have a huge influence on the market were it to adopt a licensing system.

The newly established “Voluntary Principles on Security and Human Rights”, a unique multi-stakeholder initiative supported by the U.S. government, could also serve as a model for a transnational agreement on private security. The principles are designed to guide oil and mining companies in maintaining the safety and security of their operations in developing countries while also fostering respect for human rights. The United States, along with other interested governments, should sponsor a similar agreement for private security companies, committing them to hire only licensed personnel and perhaps outlining systems by which affected stakeholders could register complaints. Watchdog organizations could help monitor and enforce these standards, and journalists could report on them.

Finally, publics in the United States and elsewhere should demand greater information about the work of PSCs, and the media should endeavor to provide it. Private security personnel should not be presumed evil any more than military forces are. But the public should demand information about them. Who are these people? How are they recruited? How are their lives affected by the wars they participate in? When are they killed or injured? When do they kill, and under whose orders? What are their numbers, and where are they deployed? When do they enhance security, and in what circumstances might they undermine it? How much do they cost?

At the very least, increased scrutiny will alert the public to the hidden political costs of using PSCs. At the most, it will educate the public about a new factor in the mix as it evaluates the competence of U.S. government leaders and the true costs, human and economic, of American foreign policy.

Max Boot:

Mercenaries are inevitable and, if employed wisely, can be effective adjuncts of U.S. policy.

Mercenaries get a bad rap. The very word has become so anathematized that it is no longer used by those it describes, practitioners of one of the world’s oldest professions. Nowadays they prefer to be called “security contractors” and their employers prefer to be known as private military or security companies. This is an understandable if not entirely logical consequence of the state monopolization of warfare, which began in the late 18th century when governments became strong enough to conscript their own citizens to fight rather than rely on hired “free lances.” The French Revolutionary and Napoleonic Wars seemed to confirm that citizen armies were superior to the traditional mix of aristocrats and mercenaries employed by the ancien régimes, and before long almost everyone was emulating the French example. Along the way there arose the widespread belief that the use of citizen-soldiers was superior not only practically but also morally; there was something distasteful, even unethical, about hiring a professional soldier, often a foreigner, to fight on one’s behalf. Much better, leaders assumed, to force their own civilians to fight upon pain of punishment. This mindset has now become so deeply entrenched that it is easy to ignore the long and distinguished history of mercenaries, and their legitimate uses down to the present day.

As Peter W. Singer points out in his invaluable book, Corporate Warriors: The Rise of the Privatized Military Industry (2003), “Hiring outsiders to fight your battles is as old as war itself. Nearly every past empire, from the ancient Egyptians to the Victorian British, contracted foreign troops in some form or another.” The Greek city-states that founded Western civilization were heavily reliant on specialized units of mercenaries such as Cretan slingers and Thessalian cavalry to supplement their native hoplites. One of the great classics of literature, Xenophon’s Anabasis, chronicles the journey of 10,000 Greek mercenaries through what is today Iraq after participating in a Persian civil war. By the end of Alexander the Great’s stunning campaign of conquest, his army was made up primarily of foreigners, not Macedonians. Hannibal, likewise, scored his great victories against Rome in the Second Punic War with an army of hired hands. And although the Roman Empire by the end became overly reliant on unassimilated “barbarians” for protection, it thrived for hundreds of years by enlisting foreigners as auxiliaries to its legions.

The tradition continued into the Middle Ages and the Renaissance, when Italian mercenaries, organized into “companies” and hired through the condotta (contract) system, pioneered the very concept of the corporation. Some of the most feared soldiers of the period were Swiss infantrymen, who were hired in 1502 to protect the Pope and are still on the job today. The use of contractors reached new heights in the Thirty Years’ War (1618–48), when the leading role on the Catholic side was played by Count Albrecht von Wallenstein, a Czech-born military entrepreneur who repeatedly bested the forces of Protestant monarchs. King Gustavus Adolphus of Sweden finally defeated Wallenstein with a force made up mostly of German, English and Scottish fighters.

Contractors were also important at sea. Indeed, some of the most illustrious names in naval history—Walter Raleigh, Francis Drake and John Hawkins—were privateers who fought in large part for economic gain. Many of the ships that defeated the Spanish Armada in 1588 were hired from these independent captains, who in turn were given commissions in Queen Elizabeth’s service. The United States, for its part, relied heavily on privateers to fight the Royal Navy during the War of Independence and the War of 1812. Well into the 19th century, soldiers and sailors could supplement their meager wages with “prize money” from seized enemy vessels or looted enemy cities.

Nor should we forget the important contribution of foreign mercenaries such as Baron von Steuben and the Marquis de Lafayette toward the winning of American independence. Granted, many of these men were concerned with promoting a good cause, not getting rich. But the two need not be in conflict.
Thousands of British mercenaries, mainly unemployed veterans of the Napoleonic Wars, fought on behalf of the nascent Latin American republics during their wars of liberation from Spain for a combination of idealistic and avaricious motives. From 1818 to 1822, Chile’s navy was led by Thomas Cochrane, a celebrated Scottish captain who is said to have been the model for Jack Aubrey in Patrick O’Brian’s novels. Cochrane later fought with many other foreigners on behalf of Greek independence from the Ottoman Empire. The “Philhellenes” of the 1820s were mainly motivated by their devotion to classical Greek civilization, but they also were paid for their efforts. Cochrane, for one, made a mint from his adventures.

Mercenaries remained important in colonial warfare even after their use declined in Europe. France, Britain and the Netherlands all chartered East India Companies that raised their own fleets and armies to carve out empires in Asia. The British government finally ended the East India Company’s independence following the Indian Mutiny of 1857, but Britain continued to rely on numerous mercenary regiments in its own army. The most famous of these were the Nepalese Gurkhas, who were first recruited in the early 19th century and continue to serve to this day. (Visiting a NATO base in Kandahar, Afghanistan, recently, I saw a table full of Gurkhas dining at the mess hall.) France famously won and defended much of its empire with the polyglot Foreign Legion, which also remains very much in business.

While most of these examples have been European, there is nothing un-American about employing mercenaries. The contributions of Lafayette and von Steuben have already been mentioned. But there were many other notable mercenaries in U.S. history, few of whom fit the conventionally negative stereotypes of “soldiers of fortune.” John Paul Jones, one of our most storied naval heroes, became a Russian admiral in 1788 after his service in the Continental Navy. Various Indian allies provided invaluable help for American settlers in conflicts starting with the establishment of the Jamestown colony in 1607 and not concluding until the Battle of Wounded Knee in 1890. During the Civil War, the Pinkerton National Detective Agency provided intelligence for the Union, as well as personal protection for President Lincoln. The Lafayette Escadrille, a French air force squadron in World War I, was composed of Americans. Douglas MacArthur, after stepping down as Army Chief of Staff, served in the 1930s as a field marshal in the Philippines. The Flying Tigers, a group of American pilots led by Claire Chennault, helped Chiang Kai-shek to battle Japanese invaders. The Eagle Squadron, a unit of the Royal Air Force in the early days of World War II, was composed of American pilots. And Montagnard tribesmen
were recruited and organized by the CIA and Army Special Forces to fight communists during the Vietnam War. All were mercenaries, yet all performed invaluable service.

This very brief historical review is not intended as a whitewash. It goes without saying that freelance fighters have committed numerous abuses. They have often deserted and sometimes rebelled against their own employers. But the same can be said of native-born soldiers. There is no real reason to assume that the former have behaved any worse than the latter. On the whole, mercenaries provided good service in keeping with the outlook pithily expressed by the 17th-century Scottish soldier of fortune Sir James Turner: "We serve our master honestly, it is no matter what master we serve." If they didn’t provide good service, after all, they would not have long remained in business.

While the use of mercenaries has been in a centuries-long decline, it has experienced a resurgence since the end of the Cold War—a time when armed forces have declined in size even as many areas of the globe have become more unstable. Most private military companies today offer logistical, training and other non-combat services, but some do provide armed security personnel as well. An even smaller number engage in offensive military operations. The most famous of these were the closely linked South African firms Executive Outcomes and Sandline. They are now out of business, but in their heyday in the 1990s they helped the governments of Papua New Guinea, Liberia, Angola and Sierra Leone, among others, to put down savage insurgencies at a time when the rest of the world stood idly by. In 1995–96, for instance, Executive Outcomes made short work of a rebel movement in Sierra Leone known as the Revolutionary United Front, which was notorious for chopping off the limbs of its victims. As a result, Sierra Leone was able to hold its first free election in decades. Another private firm, MPRI, helped to bring peace to the former Yugoslavia in 1995 by organizing the Croatian offensive that stopped Serbian aggression. Today MPRI provides trainers who operate side by side with local poppy-eradication forces in Afghanistan—a mission that NATO refuses to take on.

Somehow these interventions seem illegitimate to some people because they are undertaken for profit, not patriotism. But what’s wrong with that? After all, regular soldiers receive salary and benefits; few would serve otherwise. This was a point made in a famous 1969 exchange between Milton Friedman, who favored an all-volunteer military, and General William Westmoreland, who wanted to maintain a draft. Westmoreland said he did not want to command an "army of mercenaries." Friedman interjected, "General, would you rather command an army of slaves?" The general drew himself up and said, "I don’t like to hear our patriotic draftees referred to as slaves." Friedman replied, "I don’t like to hear our patriotic volunteers referred to as mercenaries." He went on to say, "If they are mercenaries, then I, sir, am a mercenary professor, and you, sir, are a mercenary general; we are served by mercenary physicians, we use a mercenary lawyer, and we get our meat from a mercenary butcher." If, as Friedman noted, we expect the profit motive to deliver virtually everything else we need, why should military services be any different?

Thinking along those lines in fact led to our present reliance—some might say over-reliance—on security contractors. In the 1990s, the George H.W. Bush and Clinton Administrations cut the size of U.S. active-duty armed forces by a third. To perform many of the functions once undertaken by soldiers, they hired private companies such as KBR, which won its first Logistics Civil Augmentation Program (LOGCAP) contract in 1992. This shift was supposed to bring cost-savings and greater efficiencies, and it proved largely uncontroversial until the war in Iraq. No one then anticipated that we would employ 160,000 contractors in Iraq, of whom 20,000 to 50,000 would carry guns. This massive use of contractors came about not,

as some conspiracy-mongers have it, because George W. Bush and Dick Cheney sought to undermine the Constitution or pay off their big business buddies, but because the forces they sent into Iraq were too small for all the tasks thrown their way. The U.S. government had no choice but to rely on private firms to perform functions, such as safeguarding convoys and dignitaries, that in the past would have been undertaken by soldiers.

This has caused numerous problems that have received plenty of attention from the press and antiwar partisans. These include allegations that hired interrogators were implicated in the abuses at Abu Ghraib prison in Iraq and at the Bagram detention facility in Afghanistan. The most high-profile case cited by critics was the September 16, 2007 deadly shooting in Baghdad’s Nisour Square. In January 2009 the government of Iraq revoked Blackwater’s license to operate in that country. U.S. prosecutors have also filed charges of manslaughter against five Blackwater employees; one Blackwater employee has already pled guilty and agreed to testify against his former colleagues. In a bid to escape its notoriety, Blackwater Worldwide has now changed its name to Xe.

Whatever happened in Nisour Square (a court must still sort out the facts), there have been plenty of other instances of contractors in Iraq shooting wildly, careening through traffic, and causing unnecessary mayhem. This has been the consequence in part of questionable hiring practices that, in the rush to fill burgeoning requirements, resulted in poorly trained, undisciplined gunslingers being set loose in a war zone. But an even bigger issue has been the fact that contractors are paid only to achieve narrow objectives—typically getting a convoy or VIP from point A to point B. Broader countersurgency concerns such as maintaining the support of the local populace are not on their agenda. Thus they are often too heavy-handed in protecting their charges, not caring that they leave hatred in their wake.

There also have been major coordination problems between contractors and military personnel. For instance, in March 2004 four Blackwater contractors entered Fallujah without Marine commanders being aware of their presence. Their subsequent murder triggered an ill-fated offensive that upset carefully laid Marine plans to reduce resistance in the city.

In addition, there have been numerous reports of contractors overcharging for work or not delivering what was promised. The Vinnell Corporation, for instance, was hired to train the Iraqi army in 2003 and did such a poor job (admittedly for reasons not entirely under its control) that it set back the entire American war effort.

Even when contractors do an admirable job, there have often been hidden drawbacks. An example is the work of KBR and its affiliates in running a string of American military bases across Iraq and Afghanistan. Encouraged by a “cost plus” billing system that has imposed little incentive for austerity, they have performed amazing feats of logistics, creating miniature Americas in the middle of a war zone complete with well-stocked gyms, PXs selling large-screen TVs, and dining facilities offering multiple flavors of ice cream. But the very opulence of these facilities has isolated American troops from the population and made it harder for them to pacify the country.

All these problems are undeniable, but what is the alternative? It is rare to hear the voices that castigate Blackwater, KBR, DynCorp and their ilk call for a massive increase in the size of the active-duty military. Yet that is what it would take to decrease our reliance on contractors while maintaining existing military commitments. As it happens, I favor a large increase in the size of the armed forces. I think the Army needs to grow from its current active-duty strength of around 540,000 soldiers to at least 700,000 soldiers—its size at the end of the Cold War. But such a large and costly increase could not be accomplished overnight, and even when complete, years from now, it would not allow us to banish contractors altogether. As long as we continue to rely on volunteers rather than conscripts, we will never have enough soldiers to meet every possible need, and it will never make sense to assign many mundane chores to scarce soldiers when they could be performed by hired civilians. Ideally, contractors operating alongside U.S. troops
would be limited to support functions. Realistically, however, we will need to employ private guards too, whether protecting installations in the United States or abroad.

In a perfect world, Congress would bring the size of our armed forces into closer alignment with our massive defense commitments. But our legislature, like most democratic legislatures, is loath to spend what’s needed on defense, and it is even more reluctant to conscript its citizens. Yet it also has no desire to curtail sprawling global commitments that most agree do enhance our security and prosperity. Just as Victorian parliaments stinted on the size of the British army, forcing reliance on regiments raised in India, so too our Congress will never provide enough uniformed personnel to address every perceived need. Indeed, demands on the United States are so numerous and elastic that even if we did have far more resources, calls for intervention would still grow faster than we could handle them. Thus, in all likelihood, we will continue to muddle along with a mixture of private and public providers of security services.

Given that reality, the imperative is not to vilify contractors, as so many have done, but to figure out how to get better value out of them. It is scandalous that only in 2008, after five years of war in Iraq, was the first contractor convicted of a crime—an Iraqi-Canadian translator who stabbed a colleague. By contrast, hundreds of soldiers have been court-martialed, and there is no reason to think that contractors are better behaved than their uniformed counterparts—quite the opposite.

The problem is that contractors operate in a gray area of the law. Until the conclusion of the U.S.-Iraq Status of Forces Agreement in late 2008, they enjoyed immunity from prosecution under Iraqi law. That was just as well, given the corruption and limited capacity of Iraqi courts in the immediate post-Saddam period. But it is not clear to what extent they can be held liable under U.S. law, especially when they often operate under Byzantine subcontracting arrangements that obscure their relationship with the U.S. government, the ultimate paymaster. Congress has passed legislation to specify that contractors fall within the Uniform Code of Military Justice as well as civilian law (the Military Extraterritorial Jurisdiction Act), but there are questions about whether these provisions will withstand legal scrutiny. In addition, there are obvious difficulties in conducting investigations and prosecutions in the middle of a war zone.

If we can impose justice on soldiers, however, there is no reason we cannot impose it on contractors as well. Congress and the Executive Branch need to devote greater resources to this task—and not only in high-profile cases such as the Baghdad shootings by Blackwater. One way to do this would be to pass legislation that was approved by the House in 2007 but never voted on in the Senate. This bill, authored by Congressman David Price (D-NC), would have made it easier to prosecute contractors in Federal courts and would have created an in-theater team of FBI agents to investigate possible abuses. Among its co-sponsors was then-Senator Barack Obama, who could now mount a renewed push for such legislation as President.

Beyond punishing private personnel for misconduct, we need to do a better job of integrating them with military units. Coordination has improved in the past few years, but more still needs to be done. Malcolm Nance, a veteran intelligence operative who has worked as a contractor in Iraq, made an intriguing suggestion in Small Wars Journal: Create a “force protection command” within the U.S. military that would be responsible for overseeing contractor operations. The details need to be worked out, but this could be a way to make contractors more responsive to the military chain of command.

Another way to enhance accountability would be simply to put contractors into U.S. military uniforms. Most American contractors are already veterans, but a change in Department of Defense regulations would be necessary to enroll their foreign counterparts. The Pentagon has already launched a trial program to enlist a thousand foreigners who have vital linguistic or medical skills that are in short supply in the force today. It would make sense to expand this effort to sign up more foreign
recruits (even those with no prior military experience) who would be willing to serve for a set period in return for one of the world's most precious commodities: American citizenship. We could even create a "Freedom Legion", made up of foreign-born recruits led by American officers and NCOs, on the model of the French Foreign Legion. Such an organization might raise some hackles, but it would be less "mercenary" and more accountable than the legions of contractors currently hired on an ad hoc basis.

If we manage to increase their accountability, we can think about employing contractors creatively in some areas where we may not want to send our own troops. Think of Darfur, a humanitarian tragedy that has consumed an estimated 200,000 lives. An African Union peacekeeping force proved ineffective, and its United Nations successor has not done any better. Yet there is scant chance that the United States or our NATO allies will send troops or even warplanes to provide air cover. There simply doesn't seem to be enough of a national interest to justify a potentially costly commitment, especially at a time when we are fighting major wars elsewhere. So does that mean we should stand by and let the genocide proceed unabated? Should we limit our response to passing ineffective United Nations resolutions? Not necessarily. Blackwater has publicly offered to stop the killing for a relatively modest price. There is little doubt that private security firms that employ veterans from the top Western militaries could accomplish this task more effectively than any force of blue helmets drawn primarily from ragtag Third World militaries. So why not hire them? That idea, which I've been pushing for a few years, has been endorsed by no less an eminence than the liberal political philosopher Michael Walzer.3

This proposal is stymied in part by its own novelty and in part by the prevalence of antimercenary prejudices. Some of these concerns, admittedly, are justified. Even if their exploits were romanticized in such movies as *The Wild Geese* (1978) and *The Dogs of War* (1980), "Mad Mike" Hoare, Bob Denard and other Western soldiers of fortune in the post-colonial era gave their trade a bad name in Africa. More recently a group of mercenaries led by Simon Mann, a former British SAS officer and co-founder of Sandline, has been imprisoned on charges of plotting a coup in the oil-rich nation of Equatorial Guinea. But while mercenaries have a checkered record in Africa, so do United Nations peacekeepers. The blue helmets have been accused of sex crimes against children, corruption and other abuses for which they have received little if any punishment. A private company could actually be held to a higher standard simply by inserting language into the contract that would give the International Criminal Court or a national criminal court jurisdiction over its actions.

Preferably such a force would be dispatched by the United Nations; failing that, by NATO, the African Union or some other international organization; and if that doesn't work out, by an individual country or group of countries. In theory, if the legal issues could be resolved, even a private citizen such as Bill Gates or George Soros could hire a force to protect Darfur. (A possible precedent is Ross Perot's hiring of mercenaries in 1979 to smuggle his employees out of revolutionary Iran.) That might, in fact, be one of the most useful acts of charity that anyone could perform. Would sending mercenaries to Darfur be the ideal outcome? Of course not. Would it be "democratic"? Again, no. But it would be better than nothing.

However uncomfortable mercenaries may make us feel, we need to accept that they have always been with us and always will be. We can't eliminate them, and stigmatizing them serves no purpose. So we need to focus on how to make better use of them. If history is any guide, they can perform exemplary service under the right circumstances.

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Jörg Friedrichs & Cornelius Friesendorf:
Privatized security cripples state-building; Iraq is a case in point.

Despite the soaring rhetoric of state-building during the presidency of George W. Bush, state-wrecking is a better description of what the Administration actually did. State-wrecking followed different trajectories in different countries. The only common thread among them over the past eight years was their sheer inadvertence. Under the Taliban in the late 1990s, Afghanistan had something resembling a state for the first time since the Soviet invasion in 1979. Since the ouster of the Taliban, the emergence of an effective Afghan state has proved frustratingly elusive. In Somalia, after 15 years of failed statehood, there were signs in 2006 that the Islamic Courts Union might establish control over significant parts of the country. But this was thwarted by a U.S.-backed Ethiopian intervention force. Although there arguably were good political reasons for military intervention in both cases, the rhetoric of state-building is nonetheless belied by the unwitting reality of state-wrecking.

But the most daunting case of Bush Administration state-wrecking is Iraq. The country used to be an autocratic state, and a nasty one at that. Now, however, despite the hopefulness engendered by a reasonably successful election this past January, it is a state most likely headed toward systemic failure.

There are several reasons for pessimism about Iraq's future. The Iraqi state encompasses a deeply divided society that has historically been held together only by a combination of ruthless leadership and, during its Hashemite era, a trans-sectarian religious authority. But then the U.S.-led military intervention decapitated the Ba'ath regime, and an overambitious but understaffed occupation regime that strove officially to transform Iraq into a functioning democracy has instead created a power vacuum that is still unfilled. A key reason for this vacuum is that the effort to restore the Weberian public monopoly over the legitimate use of force has been obstructed by various forms of security privatization.¹

In Iraq, the United States has done both too little and too much. It did too little when it failed early on to employ soldiers for law enforcement tasks that smacked of policing. It did too much when it disbanded the existing Iraqi army and police. Germany, Bosnia, Kosovo and Afghanistan offer clear lessons on the need to close public security gaps immediately after war. Security forces familiar with the local terrain are needed to protect minorities from attack and shopkeepers from looting. They are needed to arrest war criminals and representatives of the old regime looking for revenge and self-interested restitution. They are needed to fight organized crime newly emboldened by the chaotic environment in which they suddenly find themselves. If domestic forces are not available or reliable, international forces must substitute for them, lest the spoilers of peace become entrenched and incipient state institutions fail to gain legitimacy.

This failure to establish order and authority in Iraq was compounded by the delegation of public tasks to private actors, including a deliberate U.S. occupation policy of military outsourcing. Although the exact number of contractors in Iraq is unknown, in March 2006 the Private Security Company Association of Iraq estimated the number of private security contractors to be more than 48,000. Whatever the precise figure, it is clear that military outsourcing in Iraq has dwarfed all previous cases. Private contractors have constituted the largest deployment except for the U.S. military itself, outnumbering the troops provided by all non-U.S. partners in the allied Coalition combined.

The main reaction of Iraqis to the destruction and privatization of public security has been to retreat behind the ramparts of communal life, with tribal militias and local protection rackets providing what Coalition forces and Iraqi state institutions have been unable to deliver. With the occupation regime understaffed, previous security forces disbanded and many core military functions outsourced, ordinary Iraqis have been forced into the tutelage of local sheikhs. As a result, U.S. policy has unwittingly strengthened armed tribalism and private armies based more often than not

¹See David Isenberg, Shadow Force: Private Security Contractors in Iraq (Praeger, 2008).
on sectarian affiliation. To have done this in a country as heterogeneous as Iraq is to have kicked the struts out from any hope of reassembling a unitary state on the basis of anything other than brute force.

Rather than see the strengthening of tribalism and armed religion as a problem, U.S. policymakers and pundits have instead touted the virtues of the “Sons of Iraq”, the tribal-based “Sunni Awakening” and other forces that have recently created a relative sense of order. These local militias, armed and, until early 2009, financed by the United States, have stemmed the tide of al-Qaeda and checked sectarian violence, true enough. Unfortunately, the positive effects of these policies may be short-lived and the blowback from them massive. Iraq’s tribal and religious forces may become the raw materials for an all-out civil war once U.S. forces are drawn down beyond a capacity to exert political control. Some of them could well become the warlords or terrorists of tomorrow.

If we see the situation in Iraq from the wider perspective of state-wrecking, private security companies (PSCs) such as Blackwater—which has recently changed its name to Xe in an apparent effort at image spinning—are an important part of the problem. But their presence is ephemeral; most of their employees will withdraw in parallel with U.S. troops. The real problem is that they will leave a country packed with local protection rackets organized by tribal or religious strongmen. Communal force inspired by a mix of tribalism and rent-seeking behavior may well turn out to be the most enduring legacy of Operation Iraqi Freedom, and it is likely to shape the future of the country for many years to come.

Security outsourcing is a Faustian bargain for the United States as a global power. With multiple international engagements, the United States is overstretched. In such a situation, the availability of contractors enhances deployment capacity. Had it not been for contractors, the Bush Administration would have been forced to further increase the number of regular forces or National Guard and Reserve troops, to convince Coalition members to provide more soldiers, or to reinstate the military draft. Without private contractors, the U.S. military presence in Iraq would not have been sustainable. The Pentagon has therefore welcomed private contractors as force multipliers.

Outsourcing also offers the U.S. military the advantage of plausible deniability when things go wrong. While soldiers operate under a clear chain of command, contractors operate under murky subcontracting schemes. According to Blackwater President Gary Jackson, some contracts are so secret that the company can’t tell one Federal agency about the business it is doing with another agency. Outsourcing has also made it possible to hide the true costs of war. Even the total cost to the U.S. government of private security services in Iraq is unknown. Yet another advantage is that private contractors tend to make headlines only when they kill or

are killed under exceptional circumstances.

These “advantages” notwithstanding, security outsourcing carries many problems. Aside from obvious questions about constitutional checks and balances and legal transparency, outsourcing does not necessarily save money. The theory is that outsourcing is economical because contractors can be hired and fired at convenience, without long-term payments for social security plans and professional development. The reality is that their rates are high when compared with public sector employees. Indeed, in many cases contractors are former public employees, repackaged by private employers and offered at a higher price.

Besides, “value for money” has not been the main criterion for awarding contracts in Iraq, with Halliburton providing the most infamous example. Its employees were allowed, among other privileges, to stay at the luxurious Kuwait Hilton Hotel at a rate of about $300,000 per month. As Peter Singer puts it:

Success is likely only if a contract is competed for on the open market, if the winning firm can specialize on the job and build in redundancies, if the client is able to provide oversight and management to guard its own interests, and if the contractor is properly motivated by the fear of being fired. Forget these simple rules, as the U.S. government often does, and the result is not the best of privatization but the worst of monopolization.

Outsourcing has also had a detrimental impact on the perceived legitimacy of the United States as a global power. On several occasions, private contractors have violated human rights with impunity—at Abu Ghraib prison, for example. Neither U.S. civilian nor military authorities have charged any contractors for abuses in the prison (while more than a dozen U.S. soldiers have been punished). In September 2007, Blackwater employees protecting State Department staff killed 17 civilians at Nisour Square, but only in December 2008, after public outrage, did the U.S. government bring charges against five of the contractors. Not just Iraqis but non-U.S. nationals all over the world know this. This certainly does no good to the reputation of the United States as a just and compassionate power. On the contrary, it levies a heavy soft-power cost.

Outsourcing also has significant consequences for the U.S. military. In theory, it allows soldiers to focus on core military tasks. Indeed, contractors in Iraq have served meals, washed clothes, cleaned cars and performed many other tasks that require no military training. Again: sounds good in theory, but in practice it is different. Coalition forces have also relied on private contractors for activities close to the core of military tasks. During the invasion in 2003, private contractors maintained and loaded weapons systems as critical as the B-2 stealth bomber and Apache helicopters and helped operate the Navy’s Aegis missile defense system and other sophisticated combat technology. Since then, they have gathered intelligence, handled de-mining, secured key locations and headquarters, protected critical infrastructure, escorted convoys, worked as bodyguards, and continued to maintain and operate weapons systems.

In 2005, an estimated 6,000 foreign contractors were involved in armed operations. Escorting convoys, which has been particularly dangerous, became a core business for private contractors. Even Paul Bremer, the head of the Coalition Provisional Authority (CPA), relied on personal protection from Blackwater. Although contractors are officially barred from launching offensive operations and other core military tasks, in many cases contractor forces have taken part in combat.

The contractors themselves do not relish this fact, for it threatens to pin the dreaded label “mercenary” on them. They strive to distance themselves from the “dogs of war” of times past, but the Iraq experience has more often than not closed that distance. It certainly doesn’t help when British contractors return from their duties in Iraq to write adventure books with lurid titles such as Making a Killing (2007) or The Boys from Bagdad: From the Foreign Legion to the Killing Fields of Iraq (2009).


Security outsourcing has not always made the life of military commanders in Iraq easier, either. They have at times gotten bogged down in complex contractual and costing issues. A lack of clarity about the roles and obligations of contractors has increased their planning burdens and often complicated the implementation of operations. In July 2007, retired General Barry McCaffrey testified before Congress that military outsourcing had turned the U.S. logistics system into a "house of cards." Troop morale in Iraq, too, has reportedly been undermined by the fact that contractors are often paid more than soldiers performing similar tasks.

Furthermore, outsourcing drains the military's personnel resources, particularly for elite forces. Many have left the Army to work for PSCs. As one former marine put it, "the Corps was an all-expenses-paid training ground to graduate me into the private sector." The outsourcing phenomenon thus generates a bidding contest of sorts. To improve retention rates, military planners must offer better financial and educational incentives. The taxpayer pays the tab.

The unpopularity of private contractors among Iraqis is yet another serious problem, although it is hardly surprising given the inadequacies in their vetting and selection processes. Contractors operating in Iraq have included, among others, veterans from repressive regimes and special forces dropouts or expellees. Since the success of counterinsurgency hinges on winning "hearts and minds", it doesn't help when private contractors that give the appearance of having been "made in the USA" behave like obnoxious bullies. Iraqis learned quickly that private contractors are virtually immune from prosecution and so are far more likely than U.S. soldiers to shoot at you if you run away or display any suspicious movement.

At first glance, private contractors seem to be the biggest winners of military outsourcing, but that depends on how you look at it. Thanks to cronyism, the owners and top managers of some PSCs have gained enormous power and wealth, making it tempting to speak of their role in Iraq as the "Coalition of the Billing", as Singer puts it. But financial gains have been unevenly distributed. U.S. agencies have pumped billions of dollars into the coffers of a few large companies, while smaller companies have had to compete for the scraps of less lucrative contracts. Rank-and-file salaries are also unevenly distributed. The best salaries are paid to former U.S. and British special forces operators, while otherwise comparable contractors from Third World countries get less. The lowest rates go to locally hired Iraqis. (About a quarter of security contractors in Iraq have come from the developed world, another quarter from developing countries, and about half have been Iraqis.)

Military outsourcing also leads to a reallocation of personal risks from employers to employees. Profit logic dictates "cutting corners" to lower costs. This leaves contractors in a vulnerable position when in harm's way. By the fall of 2008, almost 1,300 contractors (armed and unarmed) had lost their lives in Iraq since the invasion, while almost 10,000 had been wounded. Risks are high not least because military personnel do not feel as obliged to rescue contractors as they do their fellow soldiers.

But the biggest losers already, and into the future, are bound to be Iraqis. Due to the failure of the occupying powers to establish public order, Iraqi society has experienced a catastrophic trifurcation. Those who are wealthy enough can purchase a modicum of security in the emerging private market; those with access to social networks have become clients of local sheikhs and their militias; those excluded from both wealth and social networks either live in permanent danger or have become refugees in Jordan, Syria or internally in Iraq.

The Iraqi elite have had the largest number of choices. Until recently, many found refuge in the heavily fortified Green Zone. The inhabitants of this huge gated community, also called "The Bubble", were emotionally and physically separated from the rest of the population. Others bought private protection, living in heavily guarded fortresses that they only leave when accompanied by a convoy of armed bodyguards.


Both choices have played into the hands of insurgents and terrorists, whose goal has been to prevent the forging of bonds between "collaborators" and the rest of the Iraqi population.

These choices have also significantly retarded the building of Iraqi national security institutions. Due to the increased demand for high-end security services, it is not surprising that Iraqis trained for military service prefer employment in commercial security to joining the Iraqi military or police. This is likely to get worse, not better. To fill the void after the withdrawal of the international military and contractor presence, the indigenous private security industry is likely to grow. International oil companies, fiercely competing to tap the world's third-largest oil reserve, will be among the main customers.

The situation is similar for tribal militias. Since 2007, when Sunni militias were put on the payroll of the U.S. government under the label of "Concerned Local Citizens" (later renamed "Sons of Iraq"), these deputized local protection rackets ran their own prisons and armies inside neighborhoods surrounded by high concrete walls. Now the Iraqi government is taking control of the "Sons of Iraq" from Coalition forces. A fifth is to join the Iraqi military and police, while the other four-fifths have been promised other government jobs. However, when Coalition forces leave, many "Sons of Iraq" will stick to their guns and vie for money and power. They will compete for the control of streets and neighborhoods, and they will be ready to turn against central authorities if that proves more advantageous than working with them. Coalition policy will have set the stage for gang warfare on a national scale.

In the meantime, Iraqis who have neither the means to purchase commercial security nor protection from local strongmen suffer more from bombings, sniper attacks and raids. Insofar as security depends on access to financial resources or social networks, the poor and marginalized will remain trapped in a desperate situation. Outside fortified areas of privilege, life in Iraq will be very cheap.

The privatization of security in Iraq also hampers the operations of NGOs, independent media and small investors. These non-state stabilizers have all been caught in the same dilemma: Since they cannot rely on Iraqi police or military forces to protect them, they must play the same game as the Iraqi elite. That means they have to spend scarce resources on security, tough it out, or pull out. Hiring private protection can devour more than half an NGO's budget, and it places a barrier between NGOs and their clients. It also sends a signal that somebody in the organization is important enough to be kidnapped or killed. The Iraqi "collaborators" protecting expatriate staff become additional targets. Yet renouncing private protection is not a viable option. Various charitable workers have paid with their lives for trying to do so. Many NGOs have left Iraq, while others have never entered the country. Whatever they choose, NGOs are damned if they do and damned if they don't.

The situation is likely to remain even more difficult for journalists. The dismal security situation and cost of private security have driven many journalists out of Iraq or prevented them from entering the country in the first place. As a result, the public has had to rely on fewer and fewer information sources. High levels of violence have put large media outlets at an advantage. One journalist, describing the situation in 2006, wrote that news bureaus in Baghdad were fortified installations with their own mini-armies of private guards on duty twenty-four hours a day at the gates, in watch towers, and around perimeters. To reach these bureaus, one has to run through a maze of checkpoints, armed guards, blast-wall fortifications, and concertina-wired no-man's lands where all visitors and their cars are repeatedly searched.

Although the situation has improved, dramatic and serious journalistic work is still very dangerous in Iraq. According to the Committee to Protect Journalists, 11 of the 41 journalists killed on duty during 2008 died in Iraq (down from 32 out of 56 in 2006).

Small investors are also having a hard time. Those unable or unwilling to afford protection...
by private firms or local militias have been marginalized. An entrepreneur in Baghdad complained in May 2007 that, in order to start a project in a neighborhood controlled by the Mahdi Army of Muqtada al-Sadr, he first had to pay the Sadrists. The reconstruction of Iraq has thus been dominated by a few large firms. Iraq’s main infrastructure provider, Bechtel, has received protection from DLS and its parent company ArmorGroup. General Electric has used the services of Olive Security and Custer Battles. Erinys provided most of the 14,000 armed guards who protected oil wells in 2004. Although this increases costs, large companies (typically in the extractive and construction sectors) can live and even thrive under such conditions. For smaller firms, however, security costs, and thus production costs, have become prohibitively expensive. Competition is thereby limited. This is problematic not only because it affects consumer prices and the competitiveness of the Iraqi economy, but also because the displacement of small- and medium-sized enterprises has endangered social development and economic growth.

For the aspirant Iraqi state, private and communal security is thus a double-edged sword. It alleviates short-term pressure, but it forestalls the emergence of an effective public monopoly of force. Many of the most capable personnel join militias or the private sector, sending the wrong signal to Iraqis: namely, that loyalty is owed not to the country but to whomever can pay a decent salary. It thus foils efforts to establish a legitimate public monopoly of force in Iraq. The emergence of viable national political institutions is extremely unlikely under such circumstances. While states are supposed to protect citizens no matter their financial and political clout, private security companies and local sheikhs protect selectively. Communal force is particularly problematic in that sooner or later the empowerment of local strongmen is bound to ignite further sectarian and internecine violence. Supporting commercial security and local sheikhs encourages the illusion of the quick fix at the expense of sustainable state- and nation-building.

On balance, therefore, the consequences of private and communal force in Iraq have been negative. There are more losers than winners in the short term, the advantages are highly debatable, and, except for a few interested individuals, there are no long-term winners. Short-term winners have included the Bush Administration, the bigger PSCs, large companies in the extractive and construction sectors, tribal leaders and other strongmen, and insurgents thriving on social disintegration. Losers include U.S. and allied military commanders, who are bogged down by the need to interpret contorted subcontracting schemes and are deprived of qualified personnel; common people living in Iraq; humanitarian workers; independent journalists; small investors unable or unwilling to pay for private security; and Iraqi institutions grappling to establish a public monopoly of force.

Advocates of military outsourcing like to point to recent changes in Iraq that allegedly correct past errors. In June 2008, a private contractor was convicted by a U.S. military court under the Uniform Code of Military Justice for offenses committed in Iraq. This is the first time since Vietnam that a non-member of the armed forces has been prosecuted under military law. And last year’s revisions to the Status of Forces Agreement mean that employees of companies such as Xe, née Blackwater, may lose their immunity from prosecution by Iraqi courts.

None of this will solve the basic problems inherent in outsourcing security, however. The best solution is the determination not to rely on private force in a war zone. If that requires a larger military, so be it. If that requires instead the United States to scale back its commitments and aspirations, so be it. But one way or another, matters need to be brought into balance, for private security contracting simply does not suffice as a way to avoid the hard choices. Its benefits are either specious or fleeting, and its costs are massive and manifest. Of all the lessons of the Iraq war, this is perhaps the clearest one of all.

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