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From Iraq to Afghanistan, the US and its allies are relying on private military companies (PMCs) to provide a range of security services commonly associated with national militaries. Raenette Taljaard, Member of Parliament in South Africa, cautions that this move toward the privatization of security should not go un-checked. As unregulated non-state actors motivated by profits, PMCs can serve to heighten tensions and complicate conflicts in the world's hot spots. At present, there is little oversight of PMCs, and attempts to regulate them with national legislation have proven inadequate. However, Taljaard writes, tighter international regulations may be able to stave off the whole-sale privatization of war. - YaleGlobal

Modern-Day Mercenaries

Increasingly in use in Iraq and Afghanistan, private military companies must be regulated

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NEW HAVEN: The instability of post-war Iraq has turned private military services into a booming cottage industry. The coalition authorities have awarded private companies contracts to provide a plethora of security services, like protecting oil sites and training Iraqi security forces - a special priority for the Bush administration if it is to pull US troops out by next summer. Private military companies (PMCs) have also found a lucrative market in post-war Afghanistan. However, this widening use of private military organizations presents new practical and ethical challenges that have to be addressed before they get out of control.



DynCorp International/IPM training foreign security force on behalf of the US State Department. The role of private security forces is growing.

PMCs' visibly important role in the world's 'hot spots' lends weight to the notion that the nation-state is losing its jealously-guarded monopoly on the use of force - or in some cases voluntarily relegating it to the private sector. Private companies are coming to the fore, adopting the role of more than modern-day mercenaries. The companies the US and its allies have hired - like Kroll,

Armor, Control Risks, Rubicon, and Global Risk - boast of a whole range of specializations and hail from a range of countries, but together they provide all the services normally carried out by national military forces, including intelligence, military training, logistics, and security. In addition to becoming an integral part of the machinery of war they are emerging as cogs in the infrastructure of peace. US-allied military officials and civilians in Iraq and Afghanistan are quickly becoming familiar with the 'brand services' provided by companies

But the battlefield is not merely another arena for business, and the profit motive may distort security strategy decisions. The expansion of services performed by civilian entities raises several concerns: the lack of transparency and oversight common to their operations; the performance of companies motivated by profit, not national foreign policy or security interest; and revolving door-style nepotism and conflicts of interest. All these are concerns that grow ever more urgent as mega-corporation style military companies diversify even further.

Private military companies have become an integral part of both the machinery of war and the infrastructure of peace.

The PMC boom is partly a legacy of the military downsizing that followed the end of the Cold War. But the boom is also self-sustaining; the very existence of PMCs is boosting demand for their services. Not only has it arguably become more cost effective to outsource certain military tasks to the private sector, but the insertion of PMC expertise - even in offering training and/or strategic advice - often changes the relationship between two parties in a conflict situation. This creates pressures for both parties to have a PMC's services on their side.

The countries most actively supplying PMCs to the world market include South Africa, the USA, and the UK, with varying levels of regulation of their activities. While South Africa is trying to tackle the PMC growth industry, the US and UK are turning increasingly to PMCs with no accountability or lacking strict regulatory regimes. This dangerous trend could pose a serious threat to international peace and security. Given that the bulk of conflicts in the modern era are occurring within states and often involve non-state actors, it is clear that the world can ill afford to allow additional private actors to join conflict situations - especially when accountability and legal restrictions on their behavior are relatively weak or even non-existent..

The privatization of military security presents new practical and ethical challenges for governments and multilateral institutions.

New regulations and protocols are needed to control the activities of PMCs, as recent South African experience in Iraq shows. South Africa has been in the forefront in drafting new regulations - partly owing to the notoriety of Executive Outcomes, the mercenary company staffed by former South African soldiers that played a key role in conflicts in Angola and Sierra Leone. New national legislation in South Africa has aimed to distinguish carefully between providing foreign military assistance and participating in mercenary activity.

The Regulation of Foreign Military Assistance Act, passed in July 1998, did not use the more limited, traditional definition of mercenary used in international conventions. Instead, it defined mercenary activity as "direct participation as a combatant in armed conflict for private gain." Engagement in such activity - including recruitment, training, or financing - is not only prohibited within South Africa but applies to South Africans

Past attempts by the United Nations to regulate mercenary companies have been weak.

acting outside of the country as well. While such legislation is a major step forward in both intent and word, the Iraq conflict has demonstrated the difficulty of enforcing these new regulations.

A South African firm named Meteoric Tactical Solutions is currently providing protection services in Iraq and training new Iraqi police and security forces. Erinys, a joint South African-British company, has received a multimillion dollar contract to protect Iraq's oil industry. Neither company has yet received formal approval from South Africa's National Conventional Arms Control Committee; Erinys failed to apply at all. Yet their operations are still under way.

If national legislation has proven inadequate to the task, can international law be applied to private companies? The answer is yes, but doing so will require renewed political commitment - including enforcing existing international norms and creating new ones. Past attempts by the United Nations to regulate mercenary companies have been weak. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries took over a decade to enter into force. Even then, it relied on a deficient definition of 'mercenary,' had no monitoring mechanism, and was ratified by only a minimal number of countries. These international efforts are hardly up to the task in an era where powerful governments are actively encouraging the emergence of security companies that would in any event fall outside the Convention's definitional remit.

**Addressing these issues
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conflict situations.**

Private military companies should not be banned, but they must be controlled through a complementary regime of domestic and international law to ensure that their services can never be extended into participation in active combat situations.

At the national level, states will need to tighten regulatory provisions in domestic law and enhance enforcement. At the regional and international level, states must work together to align their legal norms and to share information so that PMCs are discouraged from "shopping around" for less onerous regulatory regimes. The UN will have to update the Mercenary Convention through additional protocols that bring greater definitional clarity and create a permanent monitoring and enforcement structure modeled on the UN Conventional Arms register. A new register for PMCs will help sift the 'good guys' from the 'bad guys', rein in PMCs that aid terrorist networks, and shape debates on the policy questions arising from the increased privatization of security.

This new national and international regulatory framework for modern-day mercenary activity would provide a new tool for promoting and protecting human rights. At the very least, addressing these issues will make how the international community responds to conflict situations more transparent.

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