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**“MARS MEETS MAMMON IN THE MODERN  
WARFARE: A JUSTIFICATION OF THE USE OF PMCs”**

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*To my brother Nicola.*

*We may be distant,  
but we will always look at the same stars,  
and live under the same sky.*

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# INTRODUCTION

The objective of this thesis will be to examine and discuss the extremely tricky issue of the regulation of the PMCs market, and the various problems that arose in such scenario. The main goal will be to try to explain the flaws of the opponents to such regulations while providing counter-arguments and evidences that might defend the work of this new companies, that have proven themselves useful and a precious asset for all the actors that hired them, from states, NGOs, international organizations as well as private actors.

In the international relation's framework, private military firms aspire to be considered as mere industries, and so to be protected, along with their "assets", like all the other multinational companies throughout the globe, and they also claim that they answers to a specific market need: the one for security and military skills; nevertheless, the product they sells generates an huge amount of problems that goes against their possibilities for regulation.

As a matter of fact, a lot of scholars argued and pointed out that even if this private military firms have a structure that resembles the one of a "normal" industry, they sell a completely new and "tricky" product: they sells private military strength and a possibility, both for states and privates who hires them, to operate in a regime of "semi-impunity" from the restrains and the shackles of the international law.

Another problem to the "industry" aspect previously cited is that such private military firms tend to operate in some "grey areas' of business", because even if they are hired from legitimate actors, weather states, NGOs, UN or NATO organizations or private actors, sometimes they were used for operations that were aimed to destabilize other states or governments, and even if this cases are reducing more and more, this stained past is hunting them since then.

Other criticism against the use of this new "guns for hire" derives also for an ethical point of view. If it is taken into account that this companies can be hired for every kind of purpose, event

that was most likely to happen in the past, and we consider also that the people who hire such private firms cannot be respond directly for the crimes that such private actors may carry out, it springs an issue concerning the ethical reasons that pushed someone to hire this new mercenaries.

After a deeper analysis of these problems and some of the theories that supported the prohibition of the use of PMCs in the international framework, this thesis will try to provide some counter-arguments and thesis in favour of a regulation and a wider use of this private firms.

This work will also outline the positive outcomes that the choice of using such companies provided for their employers and also for the world of the international relations, since they have been used to strengthen the situation of a damaged country as well as such private firms have been used to extend the control and support of an external state to another ally, or possible one, without struggling with the obstacles placed by the bureaucracy of the international organizations.

It will be explained why such firms are cheaper than a national army or a UN mission, and why the PMCs have achieved greater results than others actors with a lower cost for the states and in less time.

In conclusion, it will be also presented the case of the United Kingdom's effort to regulate the usage of an asset considered extremely useful as the PMCs.

# CHAPTER 1: DEFINITION OF PMCs, MERCENARIES AND NORMS.

## *PAR. 1.1: Definition of Norms and their influence.*

*“Simply because they (mercenaries) have been common  
does not mean that mercenaries have had  
or have today an accepted place  
among the armies of the world”  
(S. Percy)*

Mercenaries have always been a constant element of our society, and even if they contributed, in a various scale, to the definition of the nations as we know them today, they were always accompanied by a sort of moral disapprobation.

Basically, as long as there have been mercenaries, there has been a norm against their use.

It is important now to define the meaning of “norm”, and even if it might seem pretty easy, it is indeed a quite laborious task.

There is a general agreement on the general and broader definition of “norm”, which is a “standard or a pattern that is usual, typical or expected<sup>1</sup>”, but there is a lot of different variations on the details of such definition; the basic agreement about the definition of a norm is the fact that, while most scholars agree about what a norm is, they disagree fundamentally about what norms do, creating a sort of “weak spot” in the structure of the critics of the mercenary use.

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<sup>1</sup> Oxford dictionary: <http://www.oxforddictionaries.com/>

Basically, not all theorists agree that norms can influence state behaviour, and so that a normative explanation of state action is possible<sup>2</sup>.

Norms sometimes might be institutionalized in specific institutions like political institutions or international law, and also in general institutions like the institutions of war. Norms embedded in specific political institutions provide an extremely visible form of influence upon the state<sup>3</sup>.

Once part of an institution, norms can have an impact on states even when they are no longer considered to be a useful moral guide to action<sup>4</sup>. As a matter of fact, the institution can promote, protect and even prolong the existence of a norm.

The influence norms have on politics can be strengthened or weakened by the presence of other norms in two different ways:

- The effect of a norm might be multiplied by support from another norm, enhancing the proscription or by making it more influential than it would be.
- The “life” of a norm, and so the influence it has, can be prolonged if it is associated with a long-lived norm.

So by examining which norms and ideas are associated with particular norms at different junctures can reveal what particular states find dangerous about mercenaries at particular times.

Nevertheless, norms can have both a “negative” and a “positive” effect on state behaviour, because they not always lead to proper “functional” and “optimal” policy decisions for states.

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<sup>2</sup> S. PERCY, *Mercenaries, The History of a Norm in International Relations*, Oxford University Press, Oxford, 2007, p. 15.

<sup>3</sup> J. GOLDSTEIN, R. O. KEOHANE, *Ideas and Foreign Policy: Beliefs, Institutions and Political Change*, Cornell University Press, Ithaca, NY, 1993, p. 3.

<sup>4</sup> *Ivi*, p. 5.

*PAR. 1.2: Definition of Mercenaries and PMCs, a problematic issue.*

*“Soldiering is about fighting,  
and if need be, killing.  
That fact can be cloacked in a  
wide range of fancy garments [...]   
but when it comes right down to it,  
soldiering is about hitting the enemy hard,  
before they can kill you”.*  
*(T. Spicer<sup>5</sup>)*

The first successful international effort to legally define the figure of mercenaries, or soldiers of fortune, was made in 1977 with the Additional Protocol I of the Geneva Conventions, followed in the same year by the Convention for the Elimination of Mercenarism in Africa, drafted by the Organization for African Unity (OAU). The third document that attempted to give a definition of mercenaries was the International Convention Against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the United Nations General Assembly in 1989.

According to those three documents, a mercenary is any person who:

- (a) Is specially recruited locally or abroad in order to fight in an armed conflict;
- (b) 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 rank and functions in the armed forces of that party;

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<sup>5</sup> Tim Spicer, former head of the PMC Sandline.



(c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;

(d) Is not a member of the armed forces of a party to the conflict;

(e) 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.

A mercenary is also any person who, in any other situation:

(a) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at:

(i) Overthrowing a Government or otherwise undermining the constitutional order of a State;

(ii) Undermining the territorial integrity of a State;

(b) Is motivated to take part therein essentially by the desire for significant private gain and is prompted by the promise or payment of material compensation;

(c) Is neither a national nor a resident of the State against which such an act is directed;

(d) Has not been sent by a State on official duty;

(e) Is not a member of the armed forces of the State on whose territory the act is undertaken<sup>6</sup>.

A flaw of this definition is that in order to consider a fighter a mercenary, all the previous characteristics must coexist, and this is quite rare also because of the fact that PMCs are different than simple mercenaries, because of the fact that they provides a wide-range of activities to potential clients, from Military Operation Support (MOS) or the standard combat operations, to military advice, analysis, training and logistic support<sup>7</sup>.

The definition of “mercenary” itself has become a powerful political tool, used in order to put a label on a different group of soldier in the attempt to make it appear somehow illegitimate.

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<sup>6</sup> Definition taken from the *International Convention against the Recruitment, Use, Financing and Training of Mercenaries*, from <http://www.un.org/documents/ga/res/44/a44r034.htm> visited on 10/6/2014.

<sup>7</sup>J. S. MORTON, P. JONES, *The Legal Status of Mercenaries*, Politics & Policy, Volume 30, No. 4, December 2002, p. 628.

In addition to this issue, it is also true that nowadays defining mercenaries even loosely is a really difficult task, because it is hard to figure out what exactly differentiate a mercenary, also known as contractor, from a regular soldier or other fighters.

It is clear that a PMC is just a company that sells a product, like Nike or Nestlè. Even if this product is quite “uncommon” for a lot of people, it is important to state that a PMC offers not only mere fighters, and even in that case under strict control due to contracts stipulated with the “customer”, but offers also protections for VIP targets, and also trainers for local armed forces, like the Afghan police that was mostly trained by contractors from the Academi, former Blackwater Worldwide, a PMC company hired by the United States; as it is written in the *Academicode of conduit*, their mission is “delivering exceptional performance and elite training and security solutions, focused on counter-terrorism, force protection, law enforcement, and security operations, which enable our clients to succeed in challenging environments around the world<sup>8</sup>”.

It is important now to explain why the post-cold war era is particularly conducive to mercenarism; it is possible to underline six major reasons:

1. The decline of the support granted to the Third World leaders by superpowers was followed by a reduction in the ability of the African leaders to maintain their power. This underscored the extent of the deterioration of many national militaries and so professional assistance has become increasingly necessary for regime stability.

2. A global reduction in the size of the militaries in the leading states has resulted in substantial reductions in the number of military advisors, trainers and forces that leading states can deploy internationally. As a result, while challenges to existing governments increased the demand for mercenaries, cuts in national militaries among leading states increased the supply side of the equation.

3. Soldiers of fortune and PMCs relates to the reluctance of the western powers to get involved in Third World conflicts, the so-called “Somali Syndrome” (1992). Not only this reduced

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<sup>8</sup> <http://academi.com/pages/about-us/code-of-conduct>

the likelihood of actions by states individually, but also the eventuality that international organizations and group of states will respond, like the massacre of civilians perpetrated in Rwanda in 1994 and met with silence in many western capitals. As a consequence, without international assistance, states under pressures from within are more likely to turn to mercenaries and, at the same time, states wishing to military intervene without committing their own forces have turned to the use of mercenaries.

4. Globalization and the spread of capitalism are going to bring numerous new markets, many located in the Third World, into the global economic system. In order to protect and secure their personnel, investments, resources and assets, local governments and also the Multinational Companies involved in such processes turn to mercenary companies to provide protection.

5. Africa's borders and illogical, ethnically-diverse states on the continent are being questioned and challenged, creating the need for outside assistance, often provided by mercenaries.

6. The rise of sophisticated PMCs that can perform an increasing number of combatant and non-combatant-related roles, contributes to mercenarism as well<sup>9</sup>.

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<sup>9</sup>J. S. MORTON, P. JONES, *The Legal Status of Mercenaries*, Politics & Policy, Volume 30, No. 4, December 2002, pp. 627-628.

*PAR. 1.3: The issue of the “attachment to a cause”.*

*“Mercenaries must engage in combat  
and run the risk of killing in order to  
be criticized for doing so without  
an appropriate cause”*

*(S. Percy)*

All the previous statements helps with the drafting of a proper counter-argument of the common definition of mercenary that was used to create all the moderns “Anti-Mercenary Norms”: even if they are meant to be taken together, the “foreign component” and the “financial motivation” are not sufficient to define a contractor, and since two flawed halves do not make a coherent whole, in the definition of a mercenary was also introduced a third component, the issue of the attachment to a cause, with the consequent result of a proper motivation to fight.

The idea of a “cause” encapsulates both the ideas, previously explained, of externality to a conflict and a simple financial driven motivation to fight, but adds also the fact that foreigners can fight without being considered mercenaries as long as they have a cause for their actions<sup>10</sup>.

This concept cuts to the heart of the morally problematic issue about PMCs and their contractors because, thanks to the introduction of this new variable, it is really difficult to provide a plausible justification for killing that fall outside the area of financial gain, and this goes against the rules of the *jus ad bellum*, the right to go to war, that defines who got the possibility to kill in warfare and separate a “justified kill” from a “mere homicide”.

Despite these issues, the idea that mercenaries are not motivated by a cause while regular national soldiers are is a mere generalization; it is used, in practice, by the states that compares the two types of fighters, but it remains flawed, in a certain way. Quoting Lynch and Walsh, “group identification might excuse a fighter his participation in violence, but an excuse is not a

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<sup>10</sup>S. PERCY, *Mercenaries, The History of a Norm in International Relations*, Oxford University Press, Oxford, 2007, p. 54.

justification, as the former merely excuses something that we still consider wrong<sup>11</sup>”. In conclusion, contractors lack the possibility of giving an excuse for their decision to fight since they made it in independence, without the “moral backup” of the cause of their employer. So the attachment to a cause provides, usually, the possibility of a selfless motive, even if in practice this is not true.<sup>12</sup>

*PAR 1.4: The need to “control” mercenary forces.*

*“Is the essentially private,  
non-governmental nature of  
mercenary intervention which  
seems to be the basic problem”*

*(S. Burmester)*

Another aspect that differentiates mercenaries from other fighters is the degree to which they are under legitimate control, in other words under the control of the entity which is understood to have the legitimate right to wage war<sup>13</sup>. The idea of control encapsulates the idea that the true mercenary is an independent, private contractor selling his services or the ones of a company he commands<sup>14</sup>. The aspect of control in the previous statement is quite useful for two reasons: firstly it fills in blanks left by the conventional definition and enhances the same notion of cause expressed in the previous pages; secondly, it is historically accurate, overcoming the difficulties encountered with the previous definitions. Mercenaries, when placed under any kind of legitimate control, are

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<sup>11</sup> T. LYNCH, A. J. WALSH, *Ivi*, p. 139.

<sup>12</sup> S. PERCY, *Mercenaries, The History of a Norm in International Relations*, Oxford University Press, Oxford, 2007, p. 57.

<sup>13</sup> *Ibidem*.

<sup>14</sup> S. BURMESTER, *The Recruitment and Use of Mercenaries in Armed Conflict*, in *American Journal of International Law*, n.72, 1978, p. 38.

regarded as less threatening in the international system, because they no longer represent private interests, even if they can be “accused” of not having an association with a cause.

Group of fighters or singular soldiers that serve in permanent position in foreign armies are under two types of control:

1. They remain almost totally under the control of their home state, so if they made a mistake, or act improperly, they can and will be sanctioned by their home states.

2. Units or soldiers that are permanently connected to foreign armies are under the immediate and direct control of the hiring state, as far as the line of command and behaviour is concerned; so in this way the French Foreign Legion and the Gurkhas, military units formed by indigenous people from various clans of Nepal, are not properly mercenaries.

the fact that the international law still considers mercenaries and their activity as “criminal” despite the successes achieved by this companies all around the world, and the fact that the definition itself of these fighters is not coherent nor univocal, represent the main issue to be addressed, in order to create a proper set of law that avoids blaming the private fighters on the base of a vitiated conception of their works. As Shearer said: “the interventions of military companies have served to strengthen the ability of governments to control their territory”<sup>15</sup>, and so this companies need a proper legal control, to avoid further issues regarding the appliance of the norms in the international law’s framework.

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<sup>15</sup>D. SHEARER, *Outsourcing War*, Foreign Policy (112), 1998, p. 80.

## CHAPTER 2: THEORIES AGAINST PMCs.

### *PAR. 2.1: Materialist/Realist approach and its counter-argument.*

*“They sent forth men to battle,  
But no such men return;  
And home, to claim their welcome,  
Come ashes in an urn.”  
(Aeschylus, Agamemnon)*

One of the main point that lies in both the Materialist and the Realist approach towards the “contractors issue”, is the certainty that material changes in the society, like population growth, and new features of the military ideology, such as the introduction of new strategies and tactics, generated pressures and needs that could only be faced with the creation of the so-called “citizen army”.

They also add the notion that developing relationship between states and citizens and the increasing role of neutrality in international law combined to render the use of mercenaries obsolete. Increases in the population meant that states had enough citizens to create large armies and, subsequently, enough wealth to keep them supplied<sup>16</sup>.

As this changes was taking place, another important issue became more and more relevant, and it was the problem about keeping the troops motivated, since after the exclusion of “mercenaries” from the army it also collapsed the previous way to maintain discipline in its ranks, which was the “iron rule”; in Palmer words: “Only iron rule could make into a unified force men

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<sup>16</sup> B. R. POSEN, *Nationalism, the Mass Army, and Military Power*, International Security, n. 18, 2 year, 1993, p. 83.

who had no cohesion in themselves<sup>17</sup>”, and it became harder and harder to find moral qualities like courage, loyalty, and group spirit in the lower classes that composed the new bulk of the army<sup>18</sup>.

Both the Materialist and the Realist approach points out that “the combined pressures of desire for a larger army with more independent soldiers capable of functioning farther from home and at the end of a long supply line forced states to adopt a citizen-based army. Changes in material factors would bring states into conflict with each other, and force the less technologically developed or organized states to adopt the tactics of the more developed, or face defeat<sup>19</sup>”.

Regarding the Materialist/Realist approach, we can find four main issues about the progressive shift towards a citizen based army rather than the previous model that considers the use of mercenaries.

The first issue regards the fact that population growth, despite the importance given to it by the Realist approach, might be less significant in reality, and the best response to either this issue or the changing in tactics might not be a shift towards citizens based army.

The second issue regards the timing chosen by the various states to adopt a “Citizen Army”, which cannot be explained by “Systemic Pressures”. The “Systemic Pressure” cannot also justify the approval expressed by the states to the “Citizen Army” and cannot also guarantee that this model was in fact a successful one, and this is the third problem about the Materialist/Realist approach.

The fourth problem that will be taken in consideration in this chapter is the fact that the kind of nationalism that was the core element of the transition to a “Citizen Army” did not exist prior to the creation of such armies<sup>20</sup>; therefore the states took a leap of faith that citizens would suddenly behave patriotically while at war<sup>21</sup>.

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<sup>17</sup> R. R. PALMER, “Frederick, Guilbert, Bülow”, in P. PARET, G.A. CRAIG and F. GILBERT, *Makers of Modern Strategy: from Machiavelli to the Nuclear Age*, Princeton University Press, Princeton, NJ, 1986, p. 93.

<sup>18</sup>R. R. PALMER, *Ivi*, p. 95.

<sup>19</sup>W. H. McNEILL, *The Pursuit of Power: Technology, Armed Force and Society since A.D. 1000*, Oxford: Blackwell, Oxford, UK, 1982, pp. 149-150.

<sup>20</sup>S. PERCY, *Mercenaries, The History of a Norm in International Relations*, Oxford University Press, Oxford, 2007, p. 97.

<sup>21</sup>*Ibidem*.



*PAR. 2.2: Avant's approach and the critics against her theory: domestic politics, path dependency and transition from mercenaries to civilian armies.*

*"War is fought by human beings."*

*(Carl von Clausewitz)*

Deborah Avant states that the decision to use citizen armies can only be understood if a series of factors are taken into account: Enlightenment ideas, domestic politics and the logic of path dependency<sup>22</sup>. In her theory, these three ideas are interconnected, because they can be seen as three different "steps" towards the adoption of a citizen army and its consolidation. Basically Avant assumes that the political choices made by states based on the Enlightenment principles were similar all across Europe, while instead there was a significant variation in the perception of the relation between citizen and state; as Percy retorts: "While the development of Enlightenment thinking on the social contract and the relationship between the state and the citizen are undoubtedly important for understanding how reformers came to advocate abandoning the use of foreign troops, these beliefs existed alongside far more explicitly moral beliefs about the appropriate motive for fighting. Enlightenment thinking reinforced an existing dislike of foreign troops on moral grounds[...]. Europeans were becoming increasingly, and explicitly, uncomfortable with the morality of using foreign troops to fight wars"<sup>23</sup>.

The second problem triggered by Avant is that she "does not take into account that path dependency is an inherently normative process"<sup>24</sup>, thus neglecting the role played by the norms in the path dependency framework and making even more difficult to explain how a particular choice became a standard and appealing to other states.

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<sup>22</sup> D. AVANT, *From Mercenary to Citizen Armies*, International Organization, n. 54, 2000, pp. 42-43.

<sup>23</sup> S. PERCY, *Mercenaries, The History of a Norm in International Relations*, Oxford University Press, Oxford, 2007, p. 107.

<sup>24</sup> *Ivi*, p. 106.

In conclusion, this idea cannot fully explain the shift from a mercenary based army to a citizen based one and, moreover, the use of mercenary forces had been proved successful various times after this shift, the justification of the abandon of mercenaries is not entirely satisfactory.

*PAR. 2.3: Thomson's approach and its criticism: ideas can explain the shift from mercenaries to civilian armies.*

*“The inevitableness, the idealism, and the blessing of war, as an indispensable and stimulating law of development, must be repeatedly emphasized.”*

*(Friedrich von Bernhardi)*

Thomson provides another point of view on this transition from mercenarism to citizen based army. She states that norms can successfully explain why the states shifted away from a mercenary based army and towards a citizen based army, and one of the main norms that made this possible was the norm of neutrality. With the affirmation of the norm of neutrality, mercenarism was delegitimated in the context of war, but since its introduction in the international framework it has been reported that such norm became internationally used because it created new expectations about the behaviour of neutral states. But if the essence of the delegitimation of mercenarism could be found in the redefinition of neutrality, it was likely to see other states adopt such norm when facing a particular war scenario, but it has been proved that most of the times the relationship between war and implementation of the neutrality norm is most of the time random.

It is possible to define at least three problems with Thomson's theory: in the first place is it possible to identify some difficulties associated with linking the disappearance of mercenaries based on the supply of selling and buying states, also because it is difficult to explain some

inconsistencies in the timing of when states stopped using foreign troops<sup>25</sup>. The second problem sprung from Thomson's analysis regards the neutrality principles; the third problem derives from the fact that states sought to control their citizens and the disappearance of mercenarism was an unintended effect of this decision<sup>26</sup>.

What is possible to understand is that if the results on the battlefield cannot provide a not debatable explanation for this shift, the choice of changing from a mercenary based force to a citizenship oriented one must have been a little moral; basically the states made this leap of faith not because it was the best thing to do, but because it was considered the right thing to do<sup>27</sup>.

## **CHAPTER 3: THEORIES IN FAVOUR OF PMCs AND THE UNITED KINGDOM'S CASE.**

### *PAR. 3.1: Neo-Liberal Theory.*

*“There's a beast in every man.*

*And it awakens when*

*you put a sword in his hand.”*

*(Ser Jorah Mormont, Game of Thrones)*

In order to try to explain the use of PMCs in the international framework and the modern age in a Neo-Liberal perspective, it is important to make a little premise.

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<sup>25</sup>S. PERCY, *Mercenaries, The History of a Norm in International Relations*, Oxford University Press, Oxford, 2007, p. 112.

<sup>26</sup>*Ibidem.*

<sup>27</sup>S. PERCY, *Mercenaries, The History of a Norm in International Relations*, Oxford University Press, Oxford, 2007, p. 120.

First of all we have to consider the neoliberalist's conception regarding the State and the actors involved in its "life". Industries and companies are not part of the State, in opposition to the mercantilist theory, and there is a convergence of private and public, national, economic interests, so a cooperation between individuals and states increase the public warfare. According to this theory, it is possible to identify two kind of actors, the public ones and the private ones, and even if an higher degree of preference is assured to the latters, public actors and institutions are approved by neoliberalist because they are considered as "market-enabling factors" and so responsible for creating the premises to allow new economies and thus new actors to blossom; nonetheless institutions are criticized as well, since they are responsible for the "Red Tape" that ties up the entire process of economic development, slowing its expansion.

Keeping this information in mind, it is already possible to provide a partial justification for the use of PMCs, at least in an economic perspective, which might states that such companies are nothing more than another kind of private actor in the economic development process, and in this view the state should not prevent their develop; in addition, it is highly demonstrated that using mercenary force is way more cheap than relying only in a citizen based army.

In any case such explanation alone is not sufficient, so it is important to go deeper into the analysis of the issue of privatization of security in the neoliberalistic view.

The post-Cold War era is characterized by two major revolution in the field of international security: the first one is the so-called "revolution in military affairs" (RMA), the second one is in more ways more definitive and has been silently creeping into the security arena, and it is the privatization of security, that is changing both the concept of war and peace and also mutating the very concept of national security<sup>28</sup>. As a matter of fact, it is possible to see that "the swelling number of internal wars and the dwindling authority of states have raised questions about

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<sup>28</sup> LCDR INDIAN NAVY A. BHARADWAJ, *Privatization of Security: The Mercenary Market-Mix*, Defence Studies 3:2, Routledge, London, UK, 2003, p. 64.

legitimacy of at least some states enjoying total monopoly over the means of controlling and conducting organized violence<sup>29</sup>”.

In the end it is possible to recognize one thing, that will most likely stay un-counteracted for a long time; as Dave Whyte says: “States are playing a formative role in the expansion of private military markets.

In contrast to the dominant themes of the literature on globalization, the emergence of those markets should be understood as an expansion rather than a diminution of the coercive and violent capacities of states.

Western states are facilitating new modes of delivering terror and violence that are also likely to increase, rather than reduce, the incidence of state-corporate crimes<sup>30</sup>”.

### *PAR. 3.2: The United Kingdom’s Case.*

*“War has changed/ War... War never changes”*

*(Old Snake, Metal Gear Solid 4: Guns of the Patriots, Hideo Kojima / Narrator, Fallout 3, Bethesda Softworks)*

United Kingdom’s government has tried to create some sort of “collaboration pact” with the private military firms, in order to gain some advantages, both in economic terms and political terms, by trying to regulate such companies. Though before venturing into the analysis of the U. K. case, it is important to do a quick overview of the situation and the theories that created the basis for such actions to take place. According to United Kingdom Foreign Secretary under Blair’s government in the period 2001-2006: “Today’s world is a far cry from the 1960s, when private military activity usually meant mercenaries of the rather unsavoury kind involved in post-colonial or neo-colonial

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<sup>29</sup>LCDR INDIAN NAVY A. BHARADWAJ, *Privatization of Security: The Mercenary Market-Mix*, Defence Studies 3:2, Routledge, London, UK, 2003, p. 64.

<sup>30</sup>D. WHYTE, *Lethal Regulation: State-Corporate Crime and the United Kingdom Government’s New Mercenaries*, Journal of Law and Society, Vol. 30, N. 4. December 2003, London, United Kingdom, p. 575.

conflicts<sup>31</sup>”. This statement is useful to better identify the core of United Kingdom’s government attitude towards PMCs and PSCs.

Such private firms are nowadays involved in an extremely wide range of legitimate operations such as providing security to NGOs and United Nations organizations in a series of high profile humanitarian missions<sup>32</sup>, de-mining operations<sup>33</sup> and providing security most commonly in the extraction, mining and oil, industries<sup>34</sup> and, in addition, private contractors provide as much as 80% of British Army training<sup>35</sup>; the positive effects of the implementation of private military firms in the national government and in the international arena can be seen also in the United States, where private contractors are employed by the United States Department of Defence in a number way more higher than the one retain on the government pay roll<sup>36</sup>, with an appraisal of the 8% of the Pentagon’s total budget of the 2003/2004 spent on PMCs<sup>37</sup>.

The rise of this new strand of market, however, does not imply a decline of the political decision-making process, because even if PMCs are often hired by legitimate governments, sometimes under a strong insistence of other foreign governments, and sometimes such companies are used to destabilize other states, when such private firms are hired by NGOs, private corporations, or by other states, they tends to operate outside the “security vacuum” previously cited, and they need to operate under consent of hosting governments for their livelihood.

When facing this growth in the private military sector’s volume of trades it is important not to consider this as an automatic loss of sovereignty, nor think that state sovereignty turn on the

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<sup>31</sup> J. STRAW, *Foreword by the Secretary of State for Foreign and Commonwealth Affairs*, in Foreign and Commonwealth Office, *Private Military Companies: Options for Regulations*, London, United Kingdom, 2001-2002, HC 577, n. 5.

<sup>32</sup> P. SINGER, *Corporate Warriors: the Rise and Ramifications of the Privatized Military Industry*, *International Security* n. 26, 2001-2002, pp. 186-220.

<sup>33</sup> C. SPEARIN, *Private Security Companies and Humanitarians: a Corporate Solution to Securing Humanitarian Spaces?*, *International Peacekeeping* n. 8, 2001, pp.20-43.

<sup>34</sup> J. CILLIERS, P. MASON, *Peace, Profit or Plunder? The Privatization of Security in War-Torn African Societies*, J. Cilliers and P. Mason eds, 1999, p. 37.

<sup>35</sup> D. WHYTE, *Lethal Regulation: State-Corporate Crime and the United Kingdom Government’s New Mercenaries*, *Journal of Law and Society*, Vol. 30, N. 4. December 2003, London, United Kingdom, p. 576.

<sup>36</sup> SELECT COMMITTEE ON FOREIGN AFFAIRS, *Private Military Companies*, Ninth Report, H. C. 922, 2001-2002, par. 8.

<sup>37</sup> N. SCHWARTZ, *The War Business: The Pentagon’s Private Army*, *Fortune Magazine* n. 3, 2003, p. 6.

relative economic power of private and public military apparatus, even if such volume of trades still maintain an high level of positive outcomes for the wellness of the state<sup>38</sup>.

The United Kingdom government's Green Paper outlines seven possible options for the regulation of PMCs and PSCs, it is possible to identify four main kind of approaches:

1. The one that will maintain the status quo.
2. The one that will cause an outright ban of these private military firms.
3. The one that will provide a sort of self-regulation, with the onus upon PMCs to demonstrate compliance and notify the government of contracts voluntarily.
4. The one that will create some form of licensing regime, where such licenses will be issued to govern either the general terms of a company operation or issued for each specified contract.

Events have proved that the United Kingdom government is opposing to the first two options listed above, while being more favourable to the latter two<sup>39</sup>, since they might avoid the “risk of damage to legitimate security-related business interests by over-regulation”<sup>40</sup>. This strategy would maximize the advantages both to the companies concerned and to the British government, considering also that a total ban might provoke capital flights. The licensing regime seems the best viable option for the British government because it would combine the establishment of a voluntary code of conduct that companies would be forced to adhere to<sup>41</sup>. Such “soft-touch” regulatory mix would likely produce great outcomes and advantages for an eventual state-corporate alliance in the military framework; such advantages considers three major aspects:

- The increasing of British industrial competitiveness.
- British ability of conducting foreign policy “by proxy”.
- The diffusion of legal accountability for PMCs.

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<sup>38</sup>D. WHYTE, *Lethal Regulation: State-Corporate Crime and the United Kingdom Government's New Mercenaries*, Journal of Law and Society, Vol. 30, N. 4. December 2003, London, United Kingdom, p. 585.

<sup>39</sup> FOREIGN AND COMMONWEALTH OFFICE, *Foreign Affairs Committee, Private Military Companies*, Cm. 5642, 2001-2002.

<sup>40</sup>*Ivi*, p. 1.

<sup>41</sup>*Ivi*, p. 101.

In conclusion, if there is a negative-sum power game in this framework, it is not one between states and markets, but between Western state-corporate powers and the rest of the world. The predicted scenario for the market of the PMCs is not representing an erosion of the state's sovereignty, but it is more a relation of re-regulation as described previously. Some studies tend to describe such relation in a pejorative way: the regulation is a sort of handcuff that the states place on the wrists of the private actors. But it is not a correct statement, because regulatory regimes build the foundations that allows private companies to flourish and enable the function of the market.

## **CONCLUSIONS**

This work was an attempt to justify the use of the private military firms in the market, and in the seeking of this result the author tried to underline the various loopholes and errors of all the theories and explanations that were proposed to justify and ban the PMCs, while recognizing that, indeed, there were some true and valid statements in them.

As a matter of fact it has emerged that the conception behind the scepticism towards this "new-mercenaries" lies on some false assumption based on the fact that in the past national armies might have been more "reliable" instead of a free company.

It has been showed that, in the modern society, the use of PMCs might generate various outcomes that encompass a wide range of fields; it can prevent the overspread of national troops on foreign soils, it can reduce the costs of providing security to the citizens, thus reducing the public expenditure for a state, it can help a nation to support some operations bypassing the "red tape" of the international bureaucracy; it can also create a better environment for the regulation of such companies, reducing greatly the risk of a rise of illegal operations realized by such private military firms and providing a solid regulation that might discipline the actions of this private actors.



In conclusion, it is important to underline the fact that PMCs have proven their worth and their importance as military assets in various situations, from training foreign troops, to providing security for agencies and private actors, to risk assessment and support to local troops, to active combat, and since they acted less and less as their “ancestors” in ethic terms, a kind of regulation that might legitimize their use and recognize to them as well the status of combatant should be the logic way to answer to a market logic that is growing stronger day after day while avoiding the creation of a market colossus that might endanger the stability, both economical and political, of a nation.

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