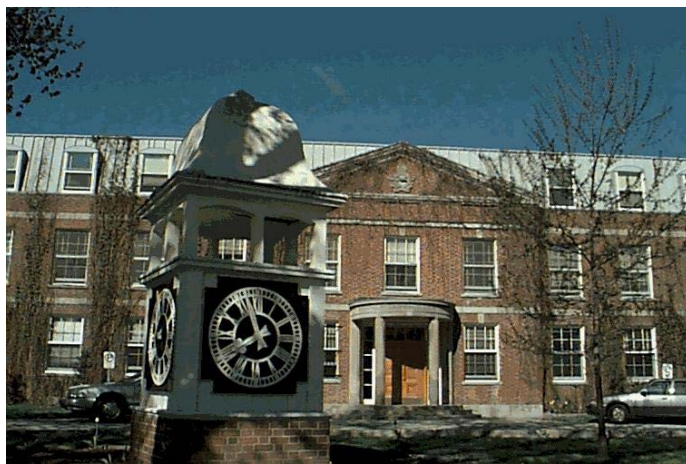


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PRIVATE AND PUBLIC SECURITY: THE VALUE OF PROTECTING THE MONOPOLIES OF THE STATE

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JCSP 40

Exercise Solo Flight

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SOLOFLIGHT

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By Major D.M. Ferris
Par le major D.M. Ferris

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PRIVATE AND PUBLIC SECURITY: THE VALUE OF PROTECTING THE MONOPOLIES OF THE STATE

"Quis custodiet ipsos custodes?"

- Decimus Iunius Iuvenalis (Juvenal), 1st Century Roman Poet

INTRODUCTION

Literally translated from Latin to mean "Who will guard the guards themselves?", political pundits use Juvenal's quote to express concern over potential corruption in politics as it carries with it the sense that those being protected have reason to fear their protectors. Max Weber, the German political philosopher and author of *Politics as a Vocation*, wrote that "...the state is a relation of men dominating men, a relation supported by means of legitimate... violence,"¹ and much of his work is associated with the debate surrounding the principles and philosophy of nations employing private security companies (PSCs) in pursuit of military objectives. PSCs, also known as private military companies or private military security companies, conduct military operations, intelligence gathering, domestic security and other operations around the world for profit.

According to Weber, the state maintains its sanctity and legitimacy through its monopoly of "the legitimate use of physical force,"² but they are ultimately derived from the acquiescence of the people to the authority of the government and the state itself. In democratic nations, it is imperative that the state operate within the legal and traditional framework of the established social contract to remain legitimate in the eyes of the citizens and the nation's allies.

¹ Max Weber, "Politics as a Vocation," in *From Max Weber: Essays in Sociology* (New York: Oxford University Press, 1958), 78.

² *Ibid.*, 83.

Since the end of the Cold War, the private military industry has taken form, as Peter Singer asserts, from a "...vacuum... in the market of security, transformations in the nature of warfare, and the normative rise of privatization."³ As an example, growing from approximately 10,000 PSC personnel in the employ of the American government in 1991 in Iraq, to more than ten times that number during Operation Iraqi Freedom (OIF) in 2006,⁴ the private military industry has generated considerable debate regarding the legitimacy of their employ. Furthermore, questions arise on how to regulate an already active industry and containing the political fallout from events such as the death of four PSC contractors in Fallujah in March, 2004.⁵ Following the withdrawal of military forces from their campaigns in Iraq and Afghanistan, Western states must now navigate the already muddy waters of further incorporating PSCs into national defence strategies and potentially more importantly, national psyches.

This paper will argue that PSCs have a role in state security, albeit only in the narrow band of military and security operations constrained by the government imposed limitations of international obligations, national security imperatives and political impetus. PSCs should be relegated to the realm of force generation and force sustainment in military operations, as well as to security tasks that fall outside of the scope of bona fide national security matters because state credibility and legitimacy hinge on the military conducting the core business of the state, as opposed to PSCs, in order to maintain the trust of the nation itself and its allies.

³ Peter W. Singer, "The Private Military Industry and Iraq: What Have We Learned and Where to Next?" in *Geneva Centre for the Democratic Control of Armed Forces* (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2004), 2.

⁴ Renae Merle, "Census Counts 100,000 Contractors in Iraq," *Washington Post*, 5 December 2006.

⁵ Deborah D. Avant, *The Market for Force: The Consequences of Privatizing Security*, (Cambridge: Cambridge University Press, 2006), 239.

METHODOLOGY

In the Canadian context, there are six core missions laid out in *the Canada First Defence Strategy* (CFDS) that enable the military to meet the cornerstones of Canadian defence policy. These cornerstones are "keeping our citizens safe and secure, defending our sovereignty, and ensuring that Canada can return to the international stage as a credible and influential country," according to Prime Minister Stephen Harper.⁶ Table 1 - *Core Tasks of the Canadian Armed Forces*, outlines the CFDS core tasks.

Table 1 - Core Tasks of the Canadian Armed Forces

Domestic Core Tasks	Expeditionary Core Tasks
<ul style="list-style-type: none"> • Conduct daily domestic and continental operations, including in the Arctic and through NORAD • Support a major international event in Canada, such as the 2010 Olympics • Respond to a major terrorist attack • Support civilian authorities during a crisis in Canada such as a natural disaster 	<ul style="list-style-type: none"> • Lead and/or conduct a major international operation for an extended period • Deploy forces in response to crises elsewhere in the world for shorter periods

Source: *Canada First Defence Strategy*, 3.

Each of these tasks contributes to fulfilling the three roles of the Canadian Armed Forces (CAF) which include defending Canada, defending North America and

⁶ Department of National Defence, *Canada First Defence Strategy* (Ottawa: National Defence Headquarters, 2009), 1.

contributing to international peace and security.⁷ Taken together, these roles and core tasks form the basis for matters of Canadian national security and are built on a strong foundation of "the four pillars of military capabilities - personnel, equipment, readiness and infrastructure."⁸ Across the spectrum of military capabilities however, are elements that need not be protected by the state military necessarily as part of its monopoly of "the legitimate use of physical force,"⁹ and the separation of what is the core business of state militaries from other types of operations will establish the niches that PSCs can operate within.

Initially, the rise of the privatization of the security industry will be examined in order to provide the rationale behind determining to what extent PSCs should be employed as part of state defence structures. The obligations of the state to its citizens and its allies will be scrutinized in order to determine where the lines are to be drawn between state prerogatives and areas for privatization. Once the operations open to privatization are determined they will be compared against the impetus behind the political will, which is whether the operations satisfy national or private interests; this will further narrow the suggested scope of privatized state security. Finally, the current and future security environments will be discussed against the backdrop of the current fiscal and economic reality of Canada, which will identify potential capability gaps inherent in the CAF of tomorrow, and the opportunities for PSCs to form part of the defence establishment. Delivering "excellence in operations"¹⁰ in the roles and tasks

⁷ *Ibid.*, 8.

⁸ Department of National Defence, *Chief of the Defence Staff: Guidance to the Canadian Armed Forces* (Ottawa: National Defence Headquarters, 2013), 12.

⁹ Weber, *Politics...*, 83.

¹⁰ Department of National Defence, *Chief of the Defence Staff: Guidance...*, 7.

outlined in the CFDS is essential for the government and its military; the current political and operational environments necessitate the examination of how to incorporate PSCs into the fabric of Canada's national security structure as their prevalence and capabilities increase and state resources shrink.

PHILOSOPHY OF PRIVATIZATION

The privatization of state security is anathema to many politicians and public servants as its underlying tenets appear to run contrary to the values of those who dedicate their lives to serving the state. Politicians, and by extension other servants of the government, "have entered the service of *political* lords,"¹¹ according to Max Weber, and as such play a role in the management of the affairs of the state. By their very nature, PSCs present a dilemma to governments that seek their services for the purposes of cost efficiencies and mission success but fear the loss of their own authority and legitimacy by delegating the security element of governance itself.¹²

The Rise of Privatization

Given the security environment of the past three decades, the reduction of state militaries around the world and the massive shift in geopolitics brought about by the end of the Cold War, there are a multitude of factors affecting the prevalence of PSCs in today's security landscape. Many of these factors are interrelated but meet at several nexuses, most notably the increased global demand of forces for interventions and armed

¹¹ Weber, *Politics...*, 83.

¹² Rita Abrahamsen and Michael C. Williams, *Security: Beyond the State* (Cambridge: Cambridge University Press, 2011), 23.

assistance, and the burden placed on state militaries that have been reduced in personnel, equipment and infrastructure but are subjected to an ever-increasing operational tempo.¹³

Prior to the dissolution of the Soviet Union, PSCs were a much smaller, though still present, element resident in the landscape of international and regional defence and security. Since that time, the proliferation of PSCs has risen at a rate that would appear to parallel the escalation in operational tempo of state militaries and globalization of the world's economy. From 1990 onwards, PSCs have been part of "every multi-lateral UN peace mission"¹⁴ and were contracted by numerous nations across the spectrum of prosperity including the United States and Sierra Leone.¹⁵ Increased globalization has a direct effect on the rise of privatization as the same market pressures and factors that affect the increase in demand for any product or service are equally as valid with respect to security. With the reduction in the number of serving state military personnel around the world in the early 1990s, the security market was inundated with capable soldiers, contractors and specialists. Simultaneously, the change in geopolitics around the world created instability and increased conflict in countless states, to which the rapidly forming PSCs were able to provide their services.¹⁶ Over the span of less than twenty years, the revenues of PSCs rose from approximately \$55 billion in the early 1990s to more than \$200 billion in 2010 and the number of publicly traded PSCs has more than doubled in that time.¹⁷

¹³ Herbert Wulf, "Privatization of Security, International Interventions and the Democratic Control of Armed Forces" in *Private Military and Security Companies: Ethics, Politics and Civil-Military Relations* (New York: Routledge, 2008), 193.

¹⁴ Avant, *The Market...*, 7.

¹⁵ *Ibid.*

¹⁶ Singer, "The Private Military Industry...", 2.

¹⁷ Avant, *The Market...*, 8.

While utilizing PSCs is assumed to be a relatively new phenomenon, states have long since abandoned Weber's concept of the state's monopoly of violence in having non-state owned and operated weapons manufacturing sectors.¹⁸ Far enough removed from the delivery of violence to be little more than an afterthought to most citizens, this development in the last century was the start of what has become what Herbert Wulf refers to as "post-modern"¹⁹ privatization, which is a deliberately planned and executed transformation led by the government institution and the state itself. Post-modern privatization aims to maintain the legitimacy and authority of the state through the proactive legislation and regulation of the industry across all facets of state military institutions that provide force generation, force employment and force sustainment.

The Return of Imperialism

During the final months of 1990, the United Nations (UN) approved the use of force in ousting Iraqi forces from Kuwait in UN Security Council Resolution (UNSCR) 678, the authority for the assembled forces to use "all necessary means" to achieve the aim of liberating Kuwait.²⁰ At the time, the Iraqi forces of Saddam Hussein were poised on the border with Saudi Arabia and oriented towards the world's largest oil reserves; had Iraqi forces captured the oil fields of Saudi Arabia, conservative predictions estimated the regime of Saddam Hussein would control 40% of the world's oil reserves.²¹ While

¹⁸ Wulf, "Privatization of Security...", 192.

¹⁹ *Ibid.*

²⁰ United Nations Security Council, *United Nations Security Council Resolution 678* (New York: UN, 1990), 1.

²¹ Saeid Naji and J.A. Jawan, "'Resource Wars' in the Post-Cold War Era: The Persian Gulf Oil, US and the Iraq War," in *Arts and Social Sciences Journal*, (2012: ASSJ-49): 8.

certainly not a purely imperialistic measure, as Niall Ferguson states in *The Ascent of Money*:

... the days had gone when investors could confidently expect their governments to send a gunboat when a foreign government misbehaved... [instead] countries had to adopt... economic policies that would have gladdened the heart of a British imperial administrator a hundred years before.²²

Since Operation DESERT STORM in January 1991, the United States and its allies have been embroiled in conflict in the Middle East and their use of PSCs in both Iraq and Afghanistan has brought into question the legitimacy of using what appears to be "imperial force" as part of political change in a state or region.²³

Parallels between Western public awareness and perception of PSCs in the 1990s and of PSCs in the United Kingdom in the 1950s can be drawn regarding the expectation of the citizenry, "...that the state should intervene in the security sector in order to control the activities of private security companies."²⁴ Peter Singer, political scientist and expert in American policy in the private security industry noted in his policy paper *The Private Military Industry and Iraq*, "...the private [security] industry brings us back to the core questions about the health and vitality of our democracy that troubled the Founding Fathers,"²⁵ highlighting the concern of state control of violence. Singer goes on to suggest that the private security industry, if not in some way responsible to the citizens of the nation they are providing services to, undermines the legitimacy of the government and risks creating government interest in establishing policies that may not be in the

²² Niall Ferguson, *The Ascent of Money: A Financial History of the World* (New York: Penguin Books, 2009), 309.

²³ Avant, *The Market...*, 244.

²⁴ Adam White, *The Politics of Private Security* (New York: Palgrave MacMillan, 2010), 50.

²⁵ Singer, "The Private Military Industry and Iraq...", 11.

public interest.²⁶ The government interest is instead an expression of the private security industry which is, at its core, an industry built on providing a security service at a profit for the company and its shareholders. This runs contrary to the purpose of state militaries and creates the current paradigm of imperialist underpinnings to the industry as a whole.

Legitimization of Privatization

International and national efforts to establish regulations and legislation for the employment of PSCs around the world began, in the modern sense at least, following World War II (WW II) in the United Kingdom (UK) with the negotiations between the London Metropolitan Police and a security company named, among several names over the years, Securicor.²⁷ Employees of Securicor conducted patrolling and security operations for individuals in London, England and so from this negotiation the first legislation involving PSCs emerged. As the Cold War progressed and Western states faced social and economic upheaval throughout the decades, some militaries shrank by significant numbers in order to offset competing demands on government institutions, a causal factor in the development of PSCs which was the impetus behind formalizing legislation. This is particularly true in the United Kingdom in the decades following WW II, and in other states such as the former Rhodesia and Apartheid South Africa later in the century.²⁸

As a result, in the increased numbers of PSCs and local security contracts in the United Kingdom, the Home Office of the British government established the Working

²⁶ Singer, "The Private Military Industry and Iraq...", 11.

²⁷ White, *The Politics...*, 41.

²⁸ Rita Abrahamsen and Michael C. Williams, *Security: Beyond the State* (Cambridge: Cambridge University Press, 2011), 25.

Party on Private Security Organizations in 1964.²⁹ Initially, its purpose was to bring state and industry representatives together to discuss the simple matters of regulation of codes of conduct and uniforms, however, it transitioned to the principle forum for negotiating and discussing the administrative and political aspects of legislation and regulation of the burgeoning private security industry as a whole.³⁰ What followed in the coming decades in the United Kingdom were numerous rounds of negotiations between politicians and private security industry representatives that laid the foundation for the industry as it is today. Throughout the 1970s, PSCs expanded into expeditionary operations supporting failed and failing states, western militaries and private industry firms in development operations around the world and following the Green Paper of 1978 in Britain, the subsequent government of Margaret Thatcher enacted sweeping changes to the provision of public service through privatization reform.³¹ Arising out of the United Kingdom, the neo-liberalist view that private provision of security services would be more efficient than those of the state based on market necessity, alongside a greater economic return for both state and private industry, began to percolate through the politics of other Western states.³²

While neo-liberalism provided the philosophical justification for employing PSCs as part of governance, codifying the legislation and regulations of domestic and international operations for PSCs remained problematic. According to Deborah Avant, author of *The Market for Force*, "...[neo-liberalism] circumscribed the sovereign

²⁹ White, *The Politics...*, 65.

³⁰ *Ibid.*, 62.

³¹ *Ibid.*, 102

³² Andrew Alexandra, "Mars Meets Mammon," in *Private Military and Security Companies: Ethics, Politics and Civil-Military Relations* (New York: Routledge, 2008), 90.

authority over violence,"³³ perpetuating the debate regarding which elements of the use of force states should relinquish control of to PSCs. Determining what elements of security are direct government responsibility versus those that fall within the realm of governance is a matter of determining whether a threat is a matter of national security or national interest.

THE BALANCE OF STATE AND PRIVATE SECURITY

In the simplest sense, the social contract of modern states requires that individuals subordinate some of their rights to the state in exchange for the protection of the remainder of their rights. It is through this social contract that states derive the necessity of laws, politics, bureaucracy and a host of other facets of government, including but not limited to, military forces. Clausewitz would argue "...it is the fighting forces that assure the safety of the country,"³⁴ and fulfill the obligation stemming from the social contract to protect the individuals in the state. As globalization increases, identifying threats to the state becomes increasingly difficult in terms of internal versus external threats and to what extent the state is actually threatened.³⁵ While imperialism is no longer an acceptable philosophy, prosperity and security for individuals in nearly every Western nation depends on the ability for foreign markets to flourish and the security of strategic lines of communication around the world. Determining the core business of the state in terms of security will define the limit of PSCs in state security operations because

³³ Avant, *The Market...*, 52.

³⁴ Carl von Clausewitz, *On War*, ed. and trans. Michael Howard and Peter Paret (Princeton: Princeton University Press, 1976), 91.

³⁵ Avant, *The Market...*, 33.

relinquishing control of these core tasks will delegitimize and undermine the social contract between the government and the people.

Core Business

Returning to the philosophy of statehood, states must provide for their people in whatever ways were agreed upon in the social contract established between the government and the citizenry. From a conceptual perspective, Weber would argue that a state:

...cannot be defined in terms of its ends... ultimately, one can define the modern state sociologically only in terms of the specific means peculiar to it... namely, the use of force.³⁶

Following this logic, a state is defined by its ability to use force in order to maintain its social contract with and meet the needs of the people; the core business of the state is therefore security as all other elements of government and governance are derived from the freedom of action necessary to meet the secondary and subsequent needs of the social contract. Implicit in this logic is Weber's concept of the state's "monopoly"³⁷ of the use of force, however, post-modernity has brought with it philosophies that suggest the state can conduct its core business through intermediaries so long as the state maintains control of the "...right' to use violence."³⁸

Presently, the majority of PSCs have no desire to accept contracts that are "in direct support of bringing about political change and/or changes on the battlefield,"³⁹ as

³⁶ Weber, *Politics...*, 78.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ Christopher Spearin, "The Changing Forms and Utility of Force: The Impact of International Security Privatization on Canada," in *International Journal*, vol. 1 (Spring 2009): 487.

these actions bring with them a significant amount of risk that could negatively affect profit. Additionally, there are risks that must be considered when engaging in combat action with respect to international law, particularly an individual's status as combatant or civilian and what entitlements PSC personnel would have in a theatre of operations. Taking direct part in hostilities would eliminate an individual's rights of immunity from attack under international law, however, they would not be afforded the same considerations for treatment as prisoners of war if captured, for example.⁴⁰ The dilemma created in this situation would be exacerbated by the contracting state's responsibility to take some sort of political or military action in response which demonstrates the necessity of employing PSCs in areas and types of operations that have a lower risk to the contractors and companies, thereby reducing the risk to the state as well.

In the post-Soviet era, many states around the world have suffered from the rebalancing of geopolitical power and struggle with fulfilling their social contract, if one even exists, with their citizenry.⁴¹ As a result, interventionism has arisen as an international requirement based on the idea of human security which espouses that the rights of individuals are paramount.⁴² More importantly, this has created a strain on the already stretched-thin forces of Western militaries that is unsustainable and perpetuates the employment of PSCs in theatres of operation around the world to conduct the tasks

⁴⁰ Emanuela-Chiara Gillard, "Private Military/Security Companies: The Status of Their Staff and Their Obligations Under International Humanitarian Law and the Responsibilities of States in Relation to Their Operations," in *Private Military and Security Companies: Ethics, policies and civil-military relations* (New York: Routledge, 2008), 162.

⁴¹ Christopher Spearin, "Privatized Peace? Assessing the Interplay Between States, Humanitarians and Private Security Companies," in *Private Military and Security Companies: Ethics, policies and civil-military relations* (New York: Routledge, 2008), 205.

⁴² *Ibid.*

that accompany these types of operations.⁴³ In some cases, non-governmental organizations (NGOs) and other governmental departments (OGDs) require security services and even benefit from not having state military assist them as it clouds the perception of the host nation populace of their neutrality in conflict zones.

Control of Physical Force

The state control and authority over the use of violence is inherent in the social contract between the state and its people and is typically an element of the founding laws and legislation of a state. From the times of Clausewitz and Weber and into the present day, the philosophy of the control of physical force centres around whether and to what extent a state should delegate its authority in the exercising of violence.⁴⁴ The American approach requires that contractors subject themselves to the Uniform Code of Military Justice while deployed on operations other than a declared war.⁴⁵ By incorporating them into the military justice system, the Americans have placed legal and binding requirements upon PSCs to behave in a manner that, in spirit at least, upholds the same values and expectations of the United States military. This demonstrates to all parties involved, including the host nation and the American people, that the government is exerting the same control over PSCs as its own forces during an operation.

In the maritime domain, state militaries do not have sufficient forces to protect all of the shipping lanes in the world from piracy and terrorism and so there is a significant

⁴³ Avant, *The Market...*, 20.

⁴⁴ Wulf, "Privatization of Security...", 191.

⁴⁵ Marina Caparini, "Regulating Private Military and Security Companies: The US Approach," in *Private Military and Security Companies: Ethics, policies and civil-military relations* (New York: Routledge, 2008), 179.

market at sea for PSCs. As Peter Chalk, one of the RAND Corporation's senior political scientists, notes:

...unlike sovereign naval forces, clear rules of engagement governing the use of force at sea have yet to be fleshed out for PSCs, much less institutionalized...[possibly exposing] contractors - and those that employ them - to exorbitant liability claims, or worse, criminal charges.⁴⁶

The risks of having insufficient control measures and legislation in place to ensure PSCs at sea operate to the same standard and in accordance with the same standards and values as military forces is a legal and therefore, a policy issue for the government. Despite Chalk's concern for the ramifications of misusing force at sea, his concerns do not warrant the reticence associated with having PSCs at sea of some nations. Clear and well-defined rules and regulations for the control of force are risk mitigation strategies that businesses and states use and as Avant argues, in the competitive security market, those PSCs that fail to exercise sufficient control of violence or fail to meet the expectations of the contracting state or business, will be affected in terms of generating future business.⁴⁷ In this manner, the private security industry is self-regulating and government and NGOs have an effect on the behavior and actions of PSCs simply by establishing and enforcing the legislation.

THE RELEGATED REALM

With the drawdown of Western forces in both Afghanistan and Iraq, militaries are reorienting themselves towards the future security environment (FSE) and the

⁴⁶ Peter Chalk, "Maritime Terrorism: Scope, Dimensions and Potential Threat Contingencies," in *Maritime Private Security: Market Responses to Piracy, Terrorism and Waterborne Security Risks in the 21st Century* (New York: Routledge, 2012), 169.

⁴⁷ Avant, *The Market...*, 67.

complexity inherent in it while facing economic and social challenges at home. Governments are faced with shrinking budgets and increased demands across the full spectrum of government services, in particular in the security domain, as most nations' armed forces are the single largest element of government in terms of personnel, resources and finances.⁴⁸ According to *The Future Security Environment: 2008-2030*, Canada's keystone document on the FSE, in response to globalization, resource and personnel shortages and economic challenges, the government "...will need to build capacity to deploy more civilians on international operations...[which] will require a forward-looking review of legislation, policies, and compensation offerings."⁴⁹ While relevant, this statement ignores the multitude of other mechanisms by which the CAF can be supported by PSCs. The sphere of security operations for PSCs should consist of operations across force generation and force sustainment in matters of national security, as well as in matters of national interest domestically and internationally.

Nature of the Threat

In 1998, the Canadian government published *The Future Security Environment: 2008 - 2030*, which was followed in 2003 by an updated version, *The Future Security Environment: 2025*. Even though only five years had passed, the events of September 11, 2001, had such global and geopolitical ramifications that all future predictions had to be reevaluated against the new developments in threats to global security. The ambiguity

⁴⁸ Brad Plumer, "America's Staggering Defense Budget, in Charts," Washington Post, 7 January 2013.

⁴⁹ Department of National Defence, *The Future Security Environment: 2008 - 2030* (Ottawa: Directorate of Land Strategic Concepts, 1998), 9.

about the FSE continues to shape Western defence budgets, procurement strategies, as well as expeditionary and domestic policies and strategies.

Among its many predictions, *The Future Security Environment: 2025* asserts that while the risk of large-scale intrastate war is lower than during the Cold War, events at the end of the 20th and early 21st centuries indicate global instability has in fact increased.⁵⁰ Failed and failing states continue to pose regional and global threats and have occupied the security consciousness of Western nations for the better part of two decades. In the same manner that reductions in conventional military forces around the world created an abundance in personnel in the private security market, technologically advanced equipment is also commonplace and many of these failing states possess relatively state of the art equipment.⁵¹

George Friedman, political scientist and founder of the geopolitical intelligence corporation Stratfor, admits in his book *The Next 100 Years* that the 21st century will see more conflict than the 20th but that it will be less cataclysmic due to geo-political changes and technological advances.⁵² Friedman goes on to state that the stability and peace support operations that some political scientists predict will become the new norm are in fact a short term phenomenon and he predicts state on state conflict, such as the current showdown between the West and Russia, is inevitable given the current global structures.⁵³ On the surface, it would appear that this type of conflict would not suit PSCs because they do not have the capabilities to wage full-scale war on the modern

⁵⁰ Department of National Defence, *The Future Security Environment: 2025* (Ottawa: Directorate of Land Strategic Concepts, 2003), 21.

⁵¹ Wulf, "Privatization of Security...", 192.

⁵² George Friedman, *The Next 100 Years*, (Toronto: Doubleday, 2009), 9.

⁵³ *Ibid.*, 57.

battlefield. However, if states were dedicating their resources towards building military forces that were capable of operations on a highly technological and complex battlefield, this would only enlarge the market for PSCs given that conflict in other regions of the world will continue unabated unless there are forces capable of intervention.

The FSE, despite the many predictions during the collapse of the Soviet Union that an era of peace had arrived, will certainly be an environment of rife with conflict. Canada's *The Future Security Environment: 2025* notes, "While intrastate conflicts will be the most probable form of hostilities in the future, it does not preclude the possibility of large-scale global or regional interstate war."⁵⁴ Indeed, the only certainty is conflict itself which, regardless of the scale of war, creates opportunities for the private security industry in terms of establishing niches around the periphery of the core business of state militaries.

Nature of the Niche

As early as 1994, the Canadian Department of National Defence (DND) engaged in an "alternative service delivery policy for non-core defence service activities,"⁵⁵ heralding not only a policy shift within political circles, but a mental leap forward in conceptualizing defence spending. Intent on reducing the national debt, reigning in defence spending and operating the military more efficiently, alternative service delivery was introduced into CAF force generation in training facilities in the army and air force, as well as into force sustainment operations domestically and by 2002, internationally.⁵⁶

⁵⁴ Department of National Defence, *The Future Security Environment: 2025...*, 22.

⁵⁵ Spearin, "The Changing Forms...", 483.

⁵⁶ *Ibid.*, 484.

As recently as 2008, the Canadian government was contracting out millions of dollars of security to more than 40 companies in support of the Department of Foreign Affairs and International Trade (DFAIT) around the world.⁵⁷ Already stretched thin, conventional militaries of the 21st century do not have the manpower or resources to conduct security operations for OGDs despite the obvious national interest.

The narrow band of state security operations in which PSCs should operate must balance the needs of the state itself in terms of support to its domestic and international security operations and the needs of the government to ensure that it, as the representatives of the state itself, upholds the previously established social contract. From the Canadian perspective, the government must balance its requirements to remain committed to the three roles of the CAF: defending Canada, defending North America and contributing to international peace and security. All three require Canada to operate as part of a multilateral force as each of these endeavours is beyond the capabilities of the CAF to conduct alone. Understanding that the United States is our largest trading partner and greatest ally, it behoves the government to uphold its military obligations to our allies through the CAF.

Similarly, recent history has demonstrated that there is a technology gap between the capabilities of the United States military and its allies, presenting North Atlantic Treaty Organization (NATO) member states and America's other allies with the difficulty of remaining interoperable with the superpower and one another.⁵⁸ In terms of establishing the niche within which PSCs will operate, states such as Canada must

⁵⁷ Christopher Spearin, "What Montreux Means: Canada and the New Regulation of the International Private Military and Security Industry," in *Canadian Foreign Policy* vol. 1 (Spring 2010): 3.

⁵⁸ Spearin, "The Changing Forms...", 490.

examine the requirements of keeping the state military interoperable with the United States in order to determine in what type of operation PSCs shall *not* operate.

Understanding that there are elements of state security that cannot be delegated outside the military itself for philosophical reasons, combined with the fact that states have international and treaty obligations that can only be met by state militaries, the niche for PSCs begins to take form.

The CAF is working towards institutionalizing the idea that its forces must be capable of and enabled to operate in what has been coined the JIMP environment - Joint, Interagency, Multinational and Public domains that intersect on domestic and international operations.⁵⁹ Interestingly, it is the JIMP doctrine that describes the core security tasks that state militaries must be capable of conducting and from the Canadian perspective, the bulk of defence dollars must be spent on reducing the technology gap with the United States and ensuring the military is capable of fulfilling the three roles as defined in the CFDS.

Nature of War

In *On War*, Clausewitz defines war as, "...not merely an act of policy but a true political instrument... carried on with other means."⁶⁰ As the means for politics in the case of interstate or intrastate conflict with state or non-state actors, the ends are therefore political ends and war is therefore the purview of the state at the behest of the government.

⁵⁹ Andrew Leslie, Peter Gizewski and Michael Rostek, "Developing a Comprehensive Approach to Canadian Forces Operations," in *Canadian Military Journal* 9, no. 1 (Spring 2008): 2.

⁶⁰ Clausewitz, *On War*, 87.

Regardless of the nature of the threat or the type of operation being conducted, the state's ultimate responsibility is to ensure its political ends are achieved through whatever ways possible while still maintaining the social contract with the people. While certain elements of war must remain the sole purview of the state as previously discussed, PSCs provide the state the opportunity to meet other expectations of the social contract in particular within Canada as the public continues to view its military primarily as peacekeepers.⁶¹ In the interest of curbing spending, the government's desired efficiencies can be found in contracting PSCs for the conduct of operations abroad that fall outside of the technological and complex operations envisioned for the military.

Developing a military that is itself a niche force limits the state's ability to intervene in other types of conflict only as far as the government limits itself on incorporating PSCs into the security structure. *The Montreux Document*, the product of the effort of dozens of countries from around the world to codify the legislation of PSCs, separates states into three groups: contracting states, territorial states and home states.⁶² Canada, home to numerous PSCs that operate domestically and around the world, falls into all three categories of being a state that contracts PSCs, a state in which PSCs operate and the home state of the PSC itself. Rather than undermining the legitimacy of the government and the institutions of the state, exerting effective control measures over the industry will have the opposite effect of legitimizing their use, their operations domestically and abroad and their role in Canadian industry.

⁶¹ Spearin, "The Changing Forms...", 482.

⁶² *The Montreux Document: On Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies During Armed Conflict* (Berne: Swiss Federal Department of Foreign Affairs, Directorate of International Law, 2008), 10.

CONCLUSION

Incorporating PSCs into the fabric of the national security structures is imperative for Canada in order to reduce the mounting pressures on personnel, equipment and readiness at home and abroad. These three pillars of military capabilities each share common ground with the operational capabilities of PSCs and it is through the early identification and codification of how to incorporate this industry into state security that efficiencies will be found. Maintaining specific skill sets within the state military that improve its ability to defend Canada and North America in cooperation with our closest allies and continue to contribute to international peace and security in a meaningful way through JIMP capable forces clearly establishes by omission the niches in which PSCs can operate.

New opportunities for alternative service delivery options in terms of force generation and force sustainment must be sought while at the same time, separation between what areas of security development are in the national interest or matters of national security will continue to shape the private security industry in the FSE. The question of who will guard the guards can best be answered in terms of established legislation and conventions which place the same elements of the state's social contract with the people onto the PSCs who have become instruments of political will. As instruments of political will, they must be limited in the spectrum of conflict that they operate within in order to reduce the risk to the legitimacy and credibility of the state itself while still achieving the political ends of the government.

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