The Privatization of Violence:
A Challenge to State-Building and the Monopoly on Force

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IN ITS IDEAL FORM, THE state guarantees the security of its citizens, both internally and externally. This is the core of what is traditionally called the state monopoly on force. In the wake of the growing globalization and transnationalization of the twenty-first century, the state has not only lost its dominant position in the world economy, but has also seen its preeminence as an actor in the use of force diminished. The state has lost dominance as different forms of privatized violence—from warlords, militias, and rebels to private military and security companies (PMCs and PSCs)—have engaged in armed conflicts. This issue is particularly relevant in low-capacity states. One of the many challenges in such countries is persistent insecurity. In weak and failing states and in many post-conflict situations, the state typically lacks the capacity to protect its monopoly on force. This inability to provide security is a defining criterion of the fragility of states.

At present, two intrinsically contradictory strategies are used to tackle the security dilemma: (1) state-building and democratic reform of the security sector; or (2) the privatization of traditionally military and police functions. The two policies can entail conflicting goals. State- and institution-building, including security sector reform, seek to strengthen the state's monopoly on force, while privatization partially outsources this monopoly to private actors. This article will compare the trend toward privatizing security to state-building efforts.

Both concepts are applied alternately or sometimes simultaneously in

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post-conflict countries and fragile states. In the context of peacekeeping and interventions, the international community considers democratization and state- and institution-building—including the reform of the armed forces, police, and judiciary—to be key to stabilizing societies.[1] In the development aid debate, reform of the security sector, especially of its democratic and civilian control, is considered a must for safeguarding peace and enabling sustainable development.[2]

However, privatizing large parts of military and security services challenges and undermines the state monopoly on force because it outsources this monopoly to private actors. Non-state actors such as warlords, militias, self-appointed vigilance patrols, and gangs challenge the state security apparatus. In addition, private firms increasingly execute police and military functions. This runs counter to the intention of establishing functioning and accountable state institutions in the security sector. In some cases, the activities of PMCs and PSCs might enhance the authority of the state. However, in practice they often challenge the authority of the state, resulting in distrust and increased insecurity.

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The proliferation of security privatization has many causes and motives, ranging from the availability of a surplus of qualified military personnel due to demobilization programs, to capacity bottlenecks in the military, to economic and ideological factors like the concept of the lean state.[3] First, privatization is a reaction to prevailing insecurity. Second, the commercialization of many functions of the armed forces or police has been pursued as part of a wider process of deregulation and outsourcing government functions.

BOTTOM-UP AND TOP-DOWN PRIVATIZATION OF VIOLENCE AND SECURITY

There are two different forms of privatized security.[4] First, warlords, organized crime, militias, rebels, and even youth gangs and child soldiers have increasingly fought in wars and violent conflicts. This bottom-up privatization of violence results from the state's failure to guarantee law and order. By contrast, top-down privatization, which entails the outsourcing of police and military functions to private companies, is deliberately planned and implemented by government.[5]

These two forms of privatized security, neither of which is entirely new, have different—though often connected—implications. Bottom-up privatization is frequently a legacy of previous wars, because governments in unstable situations

find it difficult to deal adequately with private violent actors. Bottom-up users of force create problems for the transition of society from war to peace, and they often hinder the economic development process.[6] Conversely, various governments—especially those of the United States and the United Kingdom—pursue top-down privatization as a targeted policy to privatize traditional military and police functions. Originally, the U.S. Department of Defense contracted private companies to save money. The private sector, according to the New Public Management paradigm, works more efficiently than the armed forces. However, there is reason to doubt this cost efficiency. The Commission on Wartime Contracting in Iraq and Afghanistan offers a dismal assessment: "Based on an analysis of data covering some $43 billion in high-value awards to 15 contractors in Iraq and Afghanistan, we learned that roughly 30 percent of contractor business systems audited by the Defense Contract Audit Agency contained significant deficiencies. […] Contractor billing systems and estimating systems were deficient at even greater rates—50 and 42 percent, respectively."[7] Companies charge for services that nobody can oversee or control. In line with the concept of the lean state, which involves deregulating many sectors and limiting the state's role to core competencies, the wave of privatization and outsourcing has not stopped at the gates of military bases and police institutions.

While this trend toward privatization in the United States and the United Kingdom is in line with prevailing policies of reducing state functions, a lack of state capacities drives outsourcing in countries like Afghanistan and many conflict and post-conflict countries. While bottom-up privatization illustrates the limitations of the state monopoly on force, top-down privatization delegates it to private actors, often without the necessary public oversight mechanisms in place.

The deliberate top-down contracting of PMCs and PSCs is the result of both push and pull factors. Over the past decade, many governments have found it increasingly difficult to recruit enough qualified uniformed personnel for combat and post-conflict operations. They have consequently come to depend more and more on PMCs and PSCs for training, repair, and maintenance of weapons systems and vehicles; collection of intelligence information; interrogation of prisoners of war; asset protection; and support of troops and police personnel in operational theaters. As a result, thousands of PMCs and PSCs, keen to cash in on this new market, have rapidly emerged. Contractors are hired to provide support before and during wars and, increasingly, to assist with post-war programs.

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THE CONCEPT OF STATE-BUILDING AND SECURITY SECTOR REFORM

According to the concept of state-building, the state is supposed to have the capacity to perform basic functions. It must guarantee security to its citizens, enforce the rule of law, establish a system of taxation, manage economic development, protect the environment, and deliver essential services.[8] Since the early 1990s, the international community has mobilized enormous resources—financial, technical, and military—for peacekeeping in order to stabilize weak or failing states. These external state-building interventions have one aim in common: to build a sustainable state infrastructure to prevent negative spillover effects into the international system.

The notion of state-building emerged from a debate within peacekeeping and development aid over failing or fragile states and post-conflict countries. After the end of the Cold War, it became obvious that many governments did not have the capacity to perform the functions of an effective state. This lack of state capacities motivated programs for stabilization and external interventions in order to secure the international system.

The current state-building debate is rooted in the political and philosophical notion of peace-building.[9] The label, which is increasingly attached to external interventions, assumes that the conclusion of wars and conflicts offers a window of opportunity. This assumption presumes a threefold transformation of society to a state of security and peace founded upon democracy and the market economy as a process to sustainable development. The explicit goal of peace-building is the establishment of states with the rule of law, democracy, and liberal markets. It is argued that a legitimate state should be organized according to liberal democratic principles because states with these characteristics tend to be more peaceful than others. The assumption of peace-building is that democracies rarely, or even never, go to war with one another. One of the critiques of this contention is that rather than moderate volatile situations, rapid political and economic liberalization works to destabilize them.[10]

A modern state functions in its ideal form when governmental institutions rule over a given territory, a legal system exists, and the state has the capacity to implement its policies. State-building is the process by which these conditions are established. This is the vision in Afghanistan, East Timor, the Democratic Republic of Congo, and Kosovo, to name a few prominent examples. When state-building, as it is attempted in the aforementioned cases, is externally initiated by military interventions, difficult questions arise about the provision of aid and capacity-building to state institutions. Which local actors should be

the "owners" of such a process? Which actors should be excluded? How will so-called spoilers of the peace process be treated? When is the right moment for the transfer of authority?

In their wide-ranging empirical study of state-building in post-conflict countries, Roland Paris and Timothy D. Sisk identify five distinct dilemmas that external powers face:

1. Footprint Dilemma: A dominant external presence (a heavy footprint) might be necessary to maintain or guarantee security and to initiate the political reform process. A less intrusive international presence (a light footprint) is essential "to allow local political, social, and economic life to achieve a post-conflict equilibrium on its own terms."

2. Duration Dilemma: State-building needs a long-term perspective—it is not enough to quickly hold elections and introduce radical market reforms. However, given such fundamental ruptures and transformations, people expect a quick impact and a peace dividend; after the end of war, people are looking for security in their daily lives and for their basic needs (such as food, health, clothing, jobs, and education) to be met. A slow process will lead to disillusionment. At the same time, international financial resources are scarce.

3. Participation Dilemma: Inclusion of certain groups (e.g., spoilers of the peace process) is problematic. While the situation requires a clear break with the past, it also requires striking a balance between the former warring factions. However, exclusion of certain groups might reignite or exacerbate existing conflicts.

4. Dependency Dilemma: A dominant presence of external powers leads necessarily into the local government's dependence on those powers. However, the aim of state-building is, ideally, to enable a sustainable and self-enforcing peace process.

5. Coherence Dilemma: Large numbers of external actors illustrate the multitude of programs that are partly implemented, uncoordinated, or even in competition with each other. Each organization seems to have its own agenda. The rhetoric about the need for coordination among military, diplomatic, and economic activities of the intervening countries is much more prominent than the practical measures taken.[11]

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Social and economic development depends on security as a precondition. Typically, however, a weak or failed state does not meet this requirement. Security sector reform, as part of the wider state-building concept, rests on the notion of democratizing societies, implementing good governance with transparency and accountability, and peacefully transforming societies and human security.[12]

Security sector reform, which seeks to address security through institutional changes, is advanced by the understanding that an ineffective and poorly governed security sector represents a decisive obstacle to peace, stability, poverty reduction, sustainable development, the rule of law, good governance, and respect for human rights. Responsible and accountable security forces reduce the risk of conflict.

Over the past few years, the emphasis of donors has been on strengthening governance in the security sector in order to remove barriers—such as corruption and unlawful behavior of police and armed forces—to the state's ability to provide security for its citizens.

MISGUIDED STRATEGIES: THE CASE OF AFGHANISTAN

State-building efforts and privatization of military and police functions are two dominant trends for coping with insecurity in Afghanistan. The privatization trend in the country—in reality a combination of the bottom-up and top-down approaches—illustrates a dilemma that emerges less drastically in many other countries. The worsening security situation, a result of insurgencies, is countered both by deploying more military and police forces and by hiring private security actors in the tens of thousands.

For the development and humanitarian community to work effectively, a minimum level of security is required. This security cannot presently be provided by the military or police personnel of the Afghan and foreign governments. To meet this shortfall, many development agencies and NGOs have turned to armed private military contractors.

Afghanistan is a boomtown for privatized security. Big and small companies as well as individual war adventurers quickly realized that Afghanistan's war offered ample opportunities to make money. Large foreign companies and Afghan clan leaders run many of these private firms.[13] No one really knows how many of these contractors—often labeled as mercenaries—are actively working for the Afghan government in Kabul, the armed forces at the frontline, development and humanitarian organizations in logistics, and those who can

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afford personal protection. Many of the contractors are armed and dressed in self-styled company uniforms.

The oversight and control mechanism of these companies is a problem. A 2010 U.S. Congressional Research Service report found that regulations governing PSCs are only enforced in Kabul because "outside Kabul there is no government reach at present, and local governors, chiefs of police, and politicians run their own illegal PSCs."[14]

It is a questionable premise that sending more troops and police to stabilize Afghanistan or to create reliable state institutions will be successful. Military actions are usually followed by new insurgencies. The disarmament of non-state actors—a precondition to the creation of a state monopoly on force—was not successful there in the past. *Mujahedin* leaders, warlords, and other local leaders have privatized the state security apparatus. Their power rests on their inclusion in the central government, income from the war economy—as large amounts of aid disappear through corruption from which the warlords and even the Taliban profit—and the drug trade.

The classic concept of state-building envisions the disarmament of private citizens or groups and the establishment of a state monopoly on force. This approach has not been successful so far in cases like Iraq, Afghanistan, or the Democratic Republic of Congo, and has proved far from perfect in countries like Nepal (where continuing political strife followed civil war), Sri Lanka (where the root causes of the conflict have not been removed), Somalia (where the state literally collapsed), and in Colombia and Mexico (where the state is not fully in control of certain territories).

More than 63,000 Afghan fighters took part in the official disarmament, demobilization, and reintegration program between 2004 and 2006, yet only one-quarter of those demobilized found permanent civilian jobs.[15] In Afghanistan, as in many countries, reintegration of ex-combatants—the third phase of the disarmament, demobilization, and reintegration program—did not work well. In addition, the disarmament program was implemented only halfheartedly. Members of some militias became auxiliary police, while others kept both their weapons and their status as illegal armed groups. Foreign forces employ such militia groups.[16]

A report of the U.S. Congress' Commission on Wartime Contracting in Iraq and Afghanistan illustrates the dimensions of this secretive force. The Commission found that the number of personnel of PSCs contracted by the Pentagon amounted to 242,647 people in Asia in the second quarter of 2009.[17] Of these, 133,610 were contracted in Iraq, 68,197 in Afghanistan, and 41,850

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in other South Asian countries. One year later, the number in Afghanistan was estimated to be 70,000.[18] A minority of these contractors are armed, but the number of armed contractors has increased considerably during the last several years. It increased through March 2010 to 16,398, an increase of 217 percent in a period of nine months.[19]

Jobs in PMCs and PSCs are attractive. The contractors are much better paid and better armed than members of the Afghan armed forces or the police. It is not just the Pentagon that contracts these firms. The International Security Assistance Forces (ISAF), embassies in Kabul, Afghan ministries, and civilian NGOs hire these firms to provide protection. Neither the UN, the United States, nor Afghanistan can report the exact total number of private contractors, whether armed or not, in Afghanistan. The companies recruit worldwide—primarily, of course, in Afghanistan, but also in places like Chile, Russia, Germany, Fiji, Nepal, South Africa, and Kosovo. Young men with war experience and training in special operations, rebel groups, and militias are particularly sought after.

The PMCs tender for contractors and hire chains of subcontractors. The location and purpose of deployment are usually beyond the control of the contracting authority. Companies act as a state within the state. U.S. Department of Defense officials "believe that poor contractor oversight has significantly contributed to contractor abuses."[20] The findings of the congressional report illustrate a lack of control and accountability, stating that there "is still no clear picture of who the contractors are, what services they provide, which contracts they perform, and what their support costs are," despite the fact that they are hired by the Department of Defense.[21]

Many details remain unclear. Neither the hearings in Congress, public criticism, nor casualties among the contractors has led to a reversal of the movement toward privatizing military and other security tasks.[22] More and more security-related missions are carried out by private companies, some of which have dubious reputations as exemplified by Xe, formerly known as Blackwater.

According to a new strategy announced at the January 2010 International Conference on Afghanistan in London, police training and capacity-building are now priorities, though this has already been practiced since 2004 by the U.S. companies DynCorp and MPRI. They offer two-week to eight-week crash courses in policing in which they train thousands of Afghans in counter-terror measures. The involvement of such companies is due to a lack of police personnel from Western countries willing to volunteer for dangerous police jobs in Afghanistan. Past experience has shown that those who are trained can end up joining the Taliban, often still carrying the weapons provided by the PSCs.[23]

The state-building process in Afghanistan was problematic from the beginning and still contends with a number of dilemmas. Some of the difficulties are caused by the situation of this war-torn society, while others are a result of external intervention or local problems.

Given the country's history during the last few decades, a speedy process of democratization in Afghanistan was overly ambitious. The discussion on hybrid societies fundamentally questions the Eurocentric concept of state-building and argues that cultural, traditional, and local notions of conflict mediation, laws, governance, and authority need to be an integrated part of the state-building process.[24] Some authors argue that traditionally oriented societies should not automatically be seen as backward or underdeveloped, nor should they be pushed to adopt a Western development path exclusively. Such an attitude in aid policy would block or obstruct autonomous development.

The three forms of transformation of state-building—transformation toward peace, democracy, and sustainable development in a market economy—apply to Afghanistan too. Insurgencies should be stopped, which is why the military is trying to defeat the Taliban. Elections have been held to establish democratic procedures. The Afghan National Development Strategy calls for radical market liberalization. None of these three transformations have been achieved. Security seems to deteriorate each week, and the consolidation of peace in Afghanistan is distant. The fall 2009 elections were a farce, and Afghanistan's economy is far from free. The country has an economy based on war and drugs and is plagued by chronic corruption.

It is a widely held belief that too much emphasis has been placed on establishing a central government in Kabul. Including warlords in the government complicates the stabilization, and the necessary disarmament and demobilization process remains halfhearted and incomplete. The plan for a "light footprint" did not work out. In the course of the war, the intervening countries increased their military presence, their engagement with PMCs and PSCs, and their financial commitments. Afghans criticize the current "heavy footprint."

CONCLUSION

The parallel policies of broad-based privatization of military and police functions in and by the same countries that propagate and facilitate state-building and security sector reform are incompatible, if not contradictory. There is no consistency between privatizing the state monopoly on force while calling for state-building and security sector reform.

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The trend of commercializing security has repercussions for the development of society because the type of security provision (public or private) and the institutionalization of the state monopoly on force (or its delegation to private actors) are distinct governance issues. Governance, in turn, has increasingly been recognized as an important field in times of globalization and transnationalization.

The concept of the monopoly on force is not only questioned by privatizing security functions. Globalization has diminished the role of the nation-state because an undisputed national entity no longer exists and national boundaries have become increasingly porous. Transnational challenges—like terrorism, organized crime, and climate change—are no longer issues that can be tackled at the national level. Therefore, a monopoly on force, based exclusively on the nation-state, seems anachronistic.

A more holistic approach is needed in which rules and regulations for a public monopoly on force beyond the nation-state are established.[25] This requires overcoming national idiosyncrasies. Cooperation at an international level is a prerequisite to establishing the norms and creating the institutions capable of controlling the security actors that are operating in a globalized world. The United Nations, the most authoritative body regarding global peace and security issues, would be a natural source of such far-reaching reforms.

The cases of Iraq and Afghanistan are extreme but by no means unique examples of the privatization of security. Whether it is engagement in the anti-drug campaign in Colombia, the former civil war in the West African country of Sierra Leone, the conflict zone in the Great Lakes region of Central Africa, or the war in the Balkans, private contractors are nearly always involved.

Despite critical assessments of the role of privatization of security, it can be expected that in the future countries will sign with PMCs and PSCs. In many countries, domestic criticism of the military engagement in Iraq, Afghanistan, and elsewhere, and of the deployment of more soldiers and police, is getting increasingly vocal. The privately organized alternative power centers—military and security companies—might improve the security of foreign troops, diplomats, and expatriates in the short term. In the long term, this policy undercuts developing countries' monopoly on force, thereby diminishing their authority. Furthermore, this policy is usually conducted at the expense of the security of the local population, which cannot afford to hire PMCs and PSCs for its personal protection.

Empirical evidence suggests that the privatization of military and police cannot easily be reversed. Privatizing security services diminishes a state mo-

nopoly on force. This policy contradicts the concept of creating efficient state institutions. Only when such firms are tightly and systematically regulated and controlled—an impossible task given the weak state structures in most post-conflict countries—can the state responsibly delegate security services to private actors. In present circumstances, such companies are rivals or opponents of state authorities, although they often offer services to organizations looking for protection, including states.

Neither national regulation nor international law provide adequate legal basis upon which to exercise oversight of PMCs and PSCs and their employees. Regulations are urgently needed. Unless regulations are introduced, only clients, shareholders, and owners can hold the companies accountable, and these groups will continue to offer their services to anyone willing to pay.

A total ban of such companies is unrealistic. The following options are available for controlling the burgeoning and unregulated activities of PMCs and PSCs:

1. Self-Regulation: This is an important step, but relying exclusively on self-regulation by companies is inadequate. Companies would not feel obliged to abide by an industry code of conduct and persistent offenders would simply ignore the code.[26]

2. Further Development of the 1949 Geneva Convention and its 1977 Additional Protocols: Because contractors often also operate on the battlefield, the Geneva Convention and its Additional Protocols should be revised so that they go further than the rules on mercenaries. There is a concern, however, that the outcome would be vague definitions and poor compromises, as with the Mercenary Convention.

3. Introduction of a Licensing Regime: National governments could license companies, entitling them—and them alone—to provide military services. Alternatively, licenses could be issued for the provision of very specific services, excluding other activities like deployment in combat operations.

4. Compulsory Registration: Companies would have to register their operations as well as inform their home government and the governments of their client countries about their activities. The advantage of this system is that it is easy to manage; a disadvantage, however, is that governments would have to take action to ban specific services. This requires not only political will, but

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also an appropriate legal framework.

5. International Transparency and Verification: Companies and the contractor/client countries would be required to register their contracts—disclosing relevant details of the services being provided and the scale of their contribution—in a central international register. Registration would take place after the fact, however, and the verification options would be confined to a comparison of the data provided by the various agencies (companies, contractor/client countries).

6. Blacklists: The formulation of blacklists under the auspices of the United Nations or other international organizations could be an effective tool by naming and shaming the black sheep in the industry. Blacklists of individuals and companies already exist in cases where the United Nations has imposed embargoes, as well as in the anti-terrorism context.

The services of private PMCs and PSCs might be urgently required, but from a governance policy perspective, this is problematic. The key to the modern Westphalian nation-state is a monopoly on legitimate and organized force. This is one of the main achievements of a civilized society. It remains an open question how this concept can be transformed to function in a globalized and privatized world. Ⓦ

Notes

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8. OECD, *Conflict and Fragility: Do No Harm. International Support for State-building*, 2010, 9, http://browse.oecdbookshop.org/oecd/pdfs/browseit/4310041E.pdf.

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12. Nicole Ball, et al. "Governance in the Security Sector," in Nicolas van de Walle and Nicole Ball, eds., *Beyond Structural Adjustment: The Institutional Context of African Development* (New York: Palgrave, 2003), 263-304.

13. Jake Sherman and Victoria DiDomenico, "The Public Cost of Private Security in Afghanistan," in *Briefing Paper, Center on International Cooperation* (New York: New York University, 2009), 1.

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16. Jake Sherman and Victoria DiDomenico, "The Public Cost of Private Security in Afghanistan," 2.

17. Commission on Wartime Contracting in Iraq and Afghanistan, 16.

18. Schwartz, *The Department of Defense's Use of Private Security Contractors*, 4.

19. Ibid., 11.

20. Ibid.

21. Commission on Wartime Contracting, 17.

22. According to the Department of Defense, from June 2009 to April 2010, 260 private security contractor personnel working for it were killed in Afghanistan, compared to 324 U.S. troops killed over the same period. See: Schwartz, *The Department of Defense's Use of Private Security Contractors*, 12.

23. Given the complex situation in Afghanistan, not only the private actors but also state and multilateral organizations are faced with the phenomenon that the results of their engagement might benefit the Taliban.

24. Volker Boege, et al., "On Hybrid Political Orders and Emerging States: What is Failing—States in the Global South or Research and Politics in the West?" in Martina Fischer and Beatrix Schmelzle, eds., *Building Peace in the Absence of States: Challenging the Discourse on State Failure* (Berlin: Berghof Dialogue Series, no. 8, 2009), 15-35.

25. Such a possibility is discussed in Herbert Wulf, "Challenging the Weberian Concept of the State: The Future of the Monopoly of Violence," *Australian Centre for Peace and Conflict Studies*, Occasional Paper 9 (December 2007).

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