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**PRIVATE MILITARY FIRMS AS INSTRUMENTS OF U.S.  
FOREIGN POLICY: THE CASE OF COLOMBIA**

by

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June 2007

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THE CASE OF COLOMBIA**

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Submitted in partial fulfillment of the  
requirements for the degree of

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## **ABSTRACT**

This thesis assesses the costs and benefits of U.S. reliance on the private military industry in its assistance to Colombia. U.S. policy in Colombia is characterized by an enormous military and financial effort to combat the drug trade and the violence of terrorist groups, which are heavily involved in the drug business. Private military firms (PMFs) play a major role in the fight against drugs, particularly in the U.S.-funded aerial eradication program. In addition, the United States has relied on PMFs to assist in the transformation of the defense sector, which was a key part of Plan Colombia. Given the importance of Colombia to U.S. foreign policy, it is essential to determine whether PMFs have contributed to or undermined U.S. objectives in the country. In addition, the Colombian case sheds important light on the broader debate over the advisability of relying on PMFs as an instrument of foreign policy. The main argument is that even though PMFs have been subject to much greater regulation in the Colombian case than in other instances, the executive branch lacks the ability to oversee their activities adequately and there is still a significant deficit of accountability to the Congress and the public.

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## LIST OF ABBREVIATIONS AND ACRONYMS

ACI	Andean Counterdrug Initiative
ATCA	Alien Tort Claims Act
AUC	Autodefensas Unidas de Colombia
CMS	California Microwave Systems
DOD	Department of Defense
DOS	Department of State
ELN	Ejército de Liberación Nacional
EO	Executive Outcomes
FARC	Fuerzas Armadas Revolucionarias de Colombia
FMF	Foreign Military Financing
FY	Fiscal Year
GAO	United States Government Accountability Office
INL	Bureau of International Narcotics and Law Enforcement Affairs
MPRI	Military Professional Resources Inc.
NGO	Non-Governmental Organization
PMF	Private Military Firm
PMSC	Private Military and Security Company
RUF	Revolutionary United Front
SAR	Search and Rescue
TVPA	Torture Victim Protection Act
UN	United Nations
UNODC	United Nations Office of Drugs and Crime

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## I. INTRODUCTION

In the last decade of the twentieth century a new era began as the global political landscape changed dramatically. The Cold War was over and old structures of interstate relationships which dominated foreign policy for the previous fifty years diminished in importance.<sup>1</sup> In contrast to the hope of many people, it turned out that the world did not become a safer place. In fact, new conflicts emerged when the superpowers withdrew as they left a “power vacuum” in many countries. Internal power struggles and ethnic conflicts broke out and led to a kind of warfare which is characterized by long lasting regional conflicts with no clear fronts and with actors others than states.<sup>2</sup> Additionally, the worldwide decrease in military spending reduced some of the capabilities of regular forces as they experienced budget cuts in almost every sector. With less military manpower and equipment, states had to reconsider the missions and tasks their regular forces could undertake.

This altered military and political situation laid the foundation for the increase of the private military sector.<sup>3</sup> In many developing countries, private military firms (PMFs) have filled the vacuum left by the state’s inability to provide security for its citizens. At the same time, developed countries have come to rely increasingly on private military firms in the execution of their foreign policy. The services offered by modern PMFs range from providing logistic support and training of military personnel to operational planning and assistance in combat operations. The increased reliance of the United States on PMFs has not gone unnoticed by scholars, policy analysts and actors in the international community. As the literature review discusses in more detail, the practice has been criticized

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<sup>1</sup> In this paper I will refer to the year 1990 as the marking point for the end of the Cold War as it constitutes the end of the former bipolar system between the United States and the Soviet Union.

<sup>2</sup> In particular, countries which formerly were in the sphere of influence of the Soviet Union experienced internal wars. The long, brutal war in ex-Yugoslavia serves as a good example.

<sup>3</sup> P.W. Singer, *Corporate Warriors- The Rise of the Privatized Military Industry*, (Ithaca and London: Cornell University Press, 2003), p.49.

for a variety of reasons, ranging from wrongdoing by these forces to a more general concern over the lack of accountability of the private military sector.

The purpose of the thesis is to assess the costs and benefits of U.S. reliance on the private military industry in its assistance to Colombia. In many ways, the use of PMFs in Colombia is a “least likely” case to experience the abuses or transgressions that typically plague the sector. PMFs in Colombia do not provide warfighting capabilities, but rather operational support, which is presumably less prone to abuse. U.S. assistance to Colombia was a key foreign policy issue prior to 9/11 and, as such, received a great deal of scrutiny from Congress and the public. The U.S. Embassy in Colombia was well positioned to oversee the activities of U.S.-funded PMFs within the country, in contrast to the situation in post-conflict or newly democratic countries where there is little history of a U.S. presence. Finally, while a great deal of aid was provided to Colombia, it did not reach the staggering level of spending in Iraq, which is presumably harder to monitor. If, despite these expectations, the use of PMFs in Colombia proves to be problematic (i.e., has more costs than benefits), we should be especially concerned with the increasing reliance of the United States on the private military industry for the implementation of its foreign policy objectives. If, in contrast, the U.S. has been able to use PMFs effectively in Colombia, then it might provide some useful lessons for how PMFs might be employed in an accountable fashion elsewhere in the world.

U.S. policy in Colombia is characterized by an enormous military and financial effort to combat the drug trade and the violence of terrorist groups, which are heavily involved in the drug business. The fight against these subjects, drug trafficking and terrorism, is evaluated of high importance as both are considered by the United States as a threat to national security.<sup>4</sup> In 2001, Colombia was the origin of 90% of the cocaine and 75% of the heroin which was

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<sup>4</sup> Gaston Chillier and Laurie Freeman, “Potential Threat: The New OAS Concept of Hemispheric Security”, *WOLA Special Report*, July 2005, p.2.

consumed in the United States<sup>5</sup> PMFs play a major role in the fight against drugs in Colombia, particularly in the U.S.-funded aerial eradication program. In addition, the United States has relied on PMFs to assist in the transformation of the defense sector, which was a key part of Plan Colombia. Given the importance of Colombia to U.S. foreign policy, it is essential to determine whether PMFs have contributed to or undermined U.S. objectives in the country. In addition, the Colombian case sheds important light on the broader debate over the advisability of relying on PMFs as an instrument of foreign policy.

#### **A. OVERVIEW OF SOURCES AND CHAPTERS**

The debate over the use of the private military sector has increased in recent years, in particular following the publication of two seminal books on the topic: *Corporate Warriors- The Rise of the Privatized Military Industry* by P.W. Singer in 2003 and *The Market for Force: The Consequences of Privatizing Security* by Deborah D. Avant in 2005. Additional publications of these two authors also provide a detailed look into the issue of the private military industry and serve as a framework for this paper. There is a limited amount of information on specific PMF activities in Colombia since providers of private military services do not release much information about their activities, preferring to avoid public scrutiny. However, the U.S. Congress has required the State Department to provide annual reports on the activities of contractors in support of counternarcotics efforts in Colombia. Although, most of these reports have not been made public, the reports on Fiscal Year (FY) 2002 and FY2006 contracts are available and provide an unusual and useful glimpse at the private military sector's activities in Colombia.<sup>6</sup>

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<sup>5</sup> Nina M. Serafino "Colombia: Conditions and U.S. Policy Options," in *CRS Report for Congress*, updated February 12, 2001, 3.

<sup>6</sup> United States Department of State, "Report to Congress on Certain Counternarcotics Activities in Colombia," Report to Congress Certain Counternarcotics Activities in Colombia, Submitted to the Congress by the Secretary of State, Pursuant to Section 694 (b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228), FY 2002 and FY 2006.

The thesis begins with an overview of the private military sector, showing how private actors are involved in military engagements and what kinds of services they offer. Chapter II discusses the origins and the structure of the private military sector. It provides historical background of the first “warriors for hire”, followed by a description and classification of modern PMFs. Reasons to hire private military firms are pointed out, and differences between the “classical” mercenary and modern private military firms are highlighted. Furthermore, Chapter II summarizes the debate over the use of private military firms. Opinions diverge whether the private military industry is a useful supplement to regular forces or whether it undermines the monopoly of a state’s forces and therefore threatens the sovereignty of certain states. The private military sector can help to relieve overtaxed armed forces and execute missions that bear a high political risk. However, at the same time concerns about a lack of accountability when PMFs are either involved in human rights violations or act beyond the control of the client and fail to carry out the intended political goals. The conclusion argues that due to the wide variety of services which modern private military companies offer, a general condemnation of these firms would be too easy, and it is necessary to examine each case individually in order to achieve an objective evaluation.

The third chapter describes the role of PMFs in the implementation of U.S. policy in Colombia since 2000. The chapter discusses the variety of services which the private military industry offers in Colombia and focuses on the activities of two major contractors that have worked in the country – DynCorp and Military Professional Resources Inc. (MPRI). The fourth chapter then assesses the costs and benefits of the use of PMFs in Colombia by the U.S. government. The first and second sections consider the impact upon the military and the executive branch more broadly. The third and fourth sections examine the extent to which PMFs are held accountable to the rule of law, to Congress and the public. Overall, the chapter finds that even though PMFs have been subject to much greater regulation in the Colombian case than in other instances, the executive

branch lacks the ability to oversee their activities adequately and there is still a significant deficit of accountability to the Congress and the public. Finally, Chapter V summarizes the thesis' main points and offers policy prescriptions based on these findings.

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## **II. THE PRIVATE MILITARY SECTOR**

This chapter presents information about the private military industry, which has played an increasingly important role in providing security and implementing U.S. foreign and security policy since the end of the Cold War. It begins with a historical overview of the role of mercenaries and “warriors for hire”, followed by an examination and a classification of modern private military companies. Two approaches of how to classify the private military sector are pointed out. The first approach, based on Singer, distinguishes between three different kinds of private military companies which are classified by the services they offer: The second approach refers to Avant’s classification. Here, the companies are not arranged by the services they provide but according to the contracts signed with the client. Most importantly, the chapter summarizes the emerging debate over the advantages and disadvantages of using private military companies. The costs and benefits enumerated here will be examined in more detail for the Colombian case in chapter 4.

### **A. HISTORICAL BACKGROUND**

History has shown that the outsourcing of military tasks has a long tradition. Individuals as well as groups offered their military service to rulers or countries in exchange for financial compensation. The loyalty was not founded on moral aspects but exclusively on the contract between the server and the client. For these fighters war was a profession with the purpose of personal enrichment. This phenomenon of the “warrior for hire” was neither specific to a certain epoch nor a certain culture. In fact, many wars in history were fought with the participation of mercenaries and, even today, mercenaries are actively involved in conflicts throughout the world.

The first accounts of mercenaries date back as far as 2094 BC with references to the army of King Shulgi of Ur. More detailed information, however, is available about mercenaries in ancient Greece and Rome. The Greeks hired

specialists from other countries or city-states to fill their army. Those specialists were famous for a specific military branch, for example slingers from Crete, horsemen from Thessaly and hoplites from Syracuse. The Phoenicians were famous for their skills in naval combat and consequently they offered their services, too. Alexander the Great took advantage of these potent seamen and hired a complete navy from the Phoenicians which consisted of 224 ships.

Rome, too, relied upon hired warriors to fill the rank and file of their own army. Numidians, Balearics, Gauls and Iberians were essential parts of the Roman army during the Punic Wars. The number of outside specialists and warriors in what was originally a citizen army increased during the following centuries as it became harder and harder for Rome to recruit her own citizens. More and more non-Romans from all parts of the empire now were fighting for Rome. By the end of the third century, the Roman army consisted of more Germanic soldiers than Roman citizens.<sup>7</sup>

The period of the Hundred Years War (1337-1453) provided conditions which were favorable for the “warrior for hire.” Standing armies were decimated, and this created a lack of centralized control. Private soldiers organized themselves into groups offering their service to anyone who would pay them. These groups, known as the “Free Companies,” can be seen as “military societies like the trading guilds.”<sup>8</sup>

It was at these times that Italian cities became increasingly wealthy and were looking for protection. Lacking their own large territories where they could recruit soldiers they looked to the “free-lance” practice of soldiering in Northern Europe. They imitated this system which was then called *condottieri*. The cities signed contracts with captains who were responsible to form an army in order to either defend the city or to attack a rival city. The success of this system,

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<sup>7</sup> Singer, *Corporate Warriors*, p.21.

<sup>8</sup> Theodore Ropp, *War in the Modern World*, (Baltimore and London: The Johns Hopkins University Press, 2000), p.21.

however, is questionable, as, occasionally, “the captains of both sides were accused of arranging the show beforehand.”<sup>9</sup>

Another kind of private military company was the Swiss mercenary unit. Originally these units emerged during the struggle for freedom in 1291 when Swiss cantons united to fight against foreign rule. The main tactic used by the Swiss soldiers was the Swiss pike square.<sup>10</sup> This kind of warfare proved to be so successful on the battlefield that Swiss mercenaries were hired by many countries. Not only the French king but also the Pope in Rome benefited from the military expertise of the Swiss soldiers. And still today, as part of tradition, the Pope relies on a Swiss regiment for his protection.<sup>11</sup>

The Thirty Years War (1618-1648) constitutes a turning point in military history. Up until then and during that war, most armies consisted of hired soldiers who fought for personal benefits without loyalty to nations but to the rulers who led them. With the end of the war it became clear that this would change in the future. “The concept of sovereignty won out against that of empire,”<sup>12</sup> meaning that as a result “personal armies” were replaced by standing state armies which recruited the soldiers from among their own citizens. This, however, did not mean that being a mercenary was an unprofitable profession from then on. It was a long lasting process to convert pure mercenary armies to the nation-state armies, which relied on conscription both to provide personnel and to help create the modern citizen. Military service became seen as a duty of the citizen rather than as a commodity to be sold.

As a result of the implementation of the nation-state system, the need for mercenaries was greatly reduced and public attitudes about private soldiers became generally negative. The motivation of the mercenary changed, too.

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<sup>9</sup> Ropp, p.22.

<sup>10</sup> The pike square was similar to the ancient Greek phalanx. Standing close together in square formation and armed with an 18-foot pike, the Swiss soldiers were even able to defend against a heavy cavalry charge.

<sup>11</sup> Singer, *Corporate Warriors*, p.27.

<sup>12</sup> Singer, *Corporate Warriors*, p.29.

Unlike the private soldier in former times, the “modern” mercenary is not engaged in long lasting enterprises anymore. He is looking for fast and quick money combined with a certain wish for adventure. Examples of this kind of men can be found in the wars on the African continent in the 1950s and 1960s, a time when the decolonization of many African countries took place. And still today the individual private soldier is involved in several conflicts, even though modern private firms are more and more dominant.<sup>13</sup>

The end of the Cold War was a turning point for the private military industry. The old structures of the bipolar world disappeared and new, mostly internal, conflicts broke out. Furthermore, a widespread downsizing of manpower and equipment of regular military forces provided a new momentum for the private military industry. There was a ready supply of personnel to staff PMFs and a growing demand for such firms – to fill the “security gap” in developing countries and to help implement the foreign and security policies of developed countries and international organizations. PMFs provide more services than the “classic” mercenary did as they not only sell “firepower” but also possess expertise in supply, logistics, military training and strategic consulting.

## **B. THE PRIVATE MILITARY FIRM (PMF)**

Although PMFs and their employees do not like the term “mercenary” and therefore call themselves “military advisors” or “security consultants” they do offer military services in exchange for financial compensation without being bound by national ties. The *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)* from 08 June 1977 defines mercenaries as follows:<sup>14</sup>

### Article 47 Mercenaries

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<sup>13</sup> Singer, *Corporate Warriors*, p.37.

<sup>14</sup> Website Deutsches Rotes Kreuz, <http://www.drk.de/voelkerrecht/> access March 13, 2007.

1. A mercenary shall not have the right to be a combatant or a prisoner of war.
2. A mercenary is any person who:
  - (a) is specially recruited locally or abroad in order to fight in an armed conflict;
  - (b) does, in fact, take a direct part in the hostilities;
  - (c) 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 ranks and functions in the armed forces of that Party;
  - (d) is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;
  - (e) is not a member of the armed forces of a Party to the conflict; and
  - (f) 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.

Although the classic mercenary and PMFs share many similarities, there are also significant differences between them. Modern PMFs are legal commercial enterprises which offer more varied and specialized services than the classic mercenary or the companies from past centuries. They compete on the market like any other business. Their product is security. They differ from other security companies which, for example, guard buildings or industrial facilities, because of their military component.

Over one hundred PMFs operate worldwide in more than 50 areas of conflict, offering their services to anyone who is willing to pay the bill, and thereby earning revenues of more than \$100 billion annually.<sup>15</sup> PMF clients range from

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<sup>15</sup> P.W. Singer, "Have Guns Will Travel," *New York Times*, July 21, 2003, at <http://www.brookings.edu/views/op-ed/fellows/singer20030721.htm> access March 13, 2007.

governments to non-governmental organizations (NGOs) and multinational corporations. Governments use PMFs to support regular forces, establish internal security or as a tool to implement foreign policy. NGOs mostly use PMFs in the supply and logistics sector and for securing facilities. For multinational corporations which invest large sums in areas of conflict, the PMFs act as “investment enablers”, providing the security which the investors need in order to run their businesses.<sup>16</sup> It is even possible now for the PMF to provide its services to multiple clients at the same time, something that was not possible historically.<sup>17</sup> Also in contrast to former times, PMFs do not recruit their employees with dubious tactics or word of mouth “advertising” on the black market.<sup>18</sup> Instead, the private military industry recruits employees in public advertisements searching for specialists with specific skills.<sup>19</sup> The employees are former military specialists of national forces. After the Cold War many nations downsized their military, which resulted in an oversupply of qualified military personnel. Many PMFs could satisfy their demands for highly trained soldiers out of this pool, and recruited not only foot soldiers but also high ranking officers. Some countries, for example the Soviet Union and South Africa, closed complete elite units, which in turn kept their connections and structures and opened own companies in the private military sector. Together with the downsizing of the personnel came the reduction of military equipment. Consequently, massive amounts of arms swept into the private market. The weaponry ranges from small arms up to completely functional battle tanks. The private military sector was now able to purchase a wide spectrum of weapons in order to increase their capabilities for the services they offered.<sup>20</sup>

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<sup>16</sup> Singer, *Corporate Warriors*, p.81.

<sup>17</sup> Ibid, p.46.

<sup>18</sup> Often enough recruiters in former times made false promises to get the new mercenary to sign the contract.

<sup>19</sup> Singer, *Corporate Warriors*, p. 47.

<sup>20</sup> Ibid, p.53-55.

The literature takes different approaches to characterizing PMFs. Singer identifies three different sectors of the private military industry, based on the kind of service the company offers: *Military Provider Firms*, *Military Consultant Firms* and *Military Support Firms*.<sup>21</sup> *Military Provider Firms* offer services which are directly linked to combat operations. They provide personnel which engage in actual fighting; this could either be whole combat units or specialists like combat pilots. Generally these firms offer two different kinds of contracts to the client. The client can choose between the “overall unit package” and the “force multipliers.” If the client chooses the first type, the firm provides a tactical military unit which is able to conduct the mission completely on its own. The second option, the “force multiplier,” is usually chosen by the client when it lacks expertise in specific military sectors. The PMF provides either specialists who fight alongside the client’s troops, or it provides specially trained personnel which are skilled in leading military operations.<sup>22</sup>

One example of a company in the provider sector is the South African firm Executive Outcomes (EO). Executive Outcomes was active in Sierra Leone, fighting successfully against rebel organizations with an autonomous operating military unit. It was hired in 1995 by the government of Sierra Leone in order to defeat Foday Sankoh’s Revolutionary United Front (RUF). For the sum of \$1.8 million per month, the company provided a small battalion, including helicopter gunships and artillery. Within a short period of time the 150 soldiers of EO swept the rebel forces out of the diamond fields they had occupied, and reclaimed the mining area in the name of Sierra Leone’s government.<sup>23</sup> In this special case, the military firm sold a whole package to the client. It deployed its own forces and acted completely alone. The company did not supplement the regular forces; instead, they completely replaced them for this special mission.<sup>24</sup>

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<sup>21</sup> Singer, *Corporate Warriors*, p.91.

<sup>22</sup> Ibid, p. 93.

<sup>23</sup> Dena Montague, “The Business of War and the Prospects for peace in Sierra Leone,” *The Brown Journal of World Affairs*, Volume IX, Issue 1, Spring 2002, p. 233.

<sup>24</sup> Singer, *Corporate Warriors*, p. 94.

*Military Consulting Firms* are characterized by the advisory and training services they offer. They provide programs for the restructuring of the client's forces as well as analyses in the operational, strategic and organizational sector. Officially these firms do not participate in combat operations. However, by providing military know-how and training they do have influence on the battlefield without bearing the risks as the client does. A government or state which intends to increase military capabilities or which conducts a restructuring of the armed forces is the typical client of a consulting firm. The use of such a firm can be seen as a long-term investment for the client to improve military capabilities through the expertise of the company. According to Singer, Military Professional Resources Incorporated (MPRI) and DynCorp are both examples of consulting firms, the former offering high level strategic advice and the latter providing expertise on technical military issues.<sup>25</sup>

Finally, *Military Support Firms* are in the rear of the battlefield, providing support to the client's forces. They do not participate in combat operations but are responsible for logistics, intelligence, transport and general supply. The support sector is the largest of all sectors with many subsectors, but at the same time it is the one which draws the least public attention. Singer states that this is the case because the supply sector does not appear to be as "mercenary" as the other sectors.<sup>26</sup> This, according to Singer, is due to a common misunderstanding which considers logistics and supply separate from combat activities. But even if companies which serve that sector do not execute primary military functions as fighting or combat planning, their part in the overall mission is vital to fulfill the given objectives.

While Singer's characterization of the wide range of services PMFs provide is useful, it overlooks the fact that an individual PMF may offer services in all three areas identified. In response, Deborah Avant offers a somewhat

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<sup>25</sup> Singer, *Corporate Warriors*, pp. 95-96.

<sup>26</sup> *Ibid*, p.97.

different approach to categorizing PMFs, focusing on types of contracts rather than types of companies.<sup>27</sup> Avant also distinguishes between internal and external security services.

Internal security services mostly deal with policing tasks. On top are companies who offer *Armed Site Security*. This service, for example, is executed by the PMF Blackwater in Iraq. Below that are companies which have contracts in *Unarmed Site Security* followed by *Police Advice and Training* which is conducted by DynCorp in Iraq. At the bottom of Avant's internal service classification are the contracts in the *Crime Prevention* and *Intelligence Sector*.<sup>28</sup> All these contracts regulate services which mainly are core functions of the regular police. The companies which offer these services operate worldwide and clients hire them to, for example, protect mining sites and diamond companies or, like the U.N., to receive crime prevention services.<sup>29</sup>

Regarding the external security services, Avant distinguishes between four different contracts which, all together, constitute the variety of services a military can provide. Closest to the front line are contracts which provide *Armed Operational Support*. In these cases, PMFs are on the battlefield and participate in combat activities. The best known companies are Executive Outcomes and Sandline which gained public attention due to their missions in Sierra Leone and Angola, respectively.<sup>30</sup> Next in the typology are contracts which are awarded for providing *Unarmed Operational Support on the Battlefield* and for *Unarmed Military Advice and Training*. Finally in Avant's classification are *Logistical Support* contracts, under which PMFs provide all services which are needed to

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<sup>27</sup> Deborah Avant, *The Market for Force: The Consequences of Privatizing Security*, (New York: Cambridge University Press, 2005), p.17.

<sup>28</sup> Deborah Avant, *The Market for Force*, p.17.

<sup>29</sup> Ibid, p.20.

<sup>30</sup> Ibid, p.17.

“keep the machine running.” That means these firms care for food supply, accommodations, transport, communications and all other issues related to logistics.<sup>31</sup>

Avant would characterize the MPRI contract in support of Plan Colombia, which will be discussed in more detail in the next chapter, as “unarmed military advice and training”<sup>32</sup> – similar to Singer’s classification of MPRI as a consulting firm. In contrast, Avant classifies DynCorp’s contracts supporting crop eradication and aerial reconnaissance in Colombia, as “unarmed operational support on the battlefield.”<sup>33</sup> This classification, based on contracts, is more accurate than Singer’s more general characterization of DynCorp as a consulting firm.

### **C. THE DEBATE**

The rise of the private military sector has opened a discussion about the advantages and disadvantages of this kind of business. Opinions diverge whether the private military sector is a blessing or a curse.

Advocates of PMFs argue that they are a cost effective means of providing needed expertise for the multiple peacebuilding and peacekeeping missions that face the international community. David Shearer notes that the costs of these operations are rising, economically and politically. Therefore, he argues, “it may increasingly make sense for multilateral organizations and Western governments to consider outsourcing some aspects of these interventions to the private sector.”<sup>34</sup> Similarly, Doug Brooks notes that certain private companies have gained quite some experience in peacekeeping operations. These companies have now formed a consortium which is offering

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<sup>31</sup> Deborah Avant, *The Market for Force*, p.20.

<sup>32</sup> Deborah Avant, *The Market for Force*, p,18.

<sup>33</sup> Ibid, p.19.

<sup>34</sup> David Shearer, “Outsourcing War. (mercenary organizations),” *Foreign Policy* Fall, 1998, <http://www.fsa.ulaval.ca/personnel/VernaG/EH/F/cons/lectures/mercenaries.htm> access March 10, 2007.

help to the United Nations in the case of the Democratic Republic of Congo. He states that the consortium has the “means and motivation to carry out the full mandate by providing key services and it can do so more effectively and less expensively than the U.N. could.”<sup>35</sup>

In contrast, Deborah Avant argues that governments should not delegate the use of force to the private military sector because it constitutes a threat to the state’s monopoly on the legitimate use of force. Specifically, she says that this sector “undermines the *collective* monopoly of the state over violence in world politics.”<sup>36</sup> States give up the control and influence over the use of force when they continue to allow the privatization of violence. Referring to the case of Congo she argues that there may be more destabilization in the region after the military contractors have left. The reason for this concern is that local forces which have been trained by the contractors could pose a threat to political stability due to the lack of government control.<sup>37</sup>

Relatedly, Anna Leander argues that public security structures are undermined with the increased reliance on PMFs. The reliance on PMFs does not enhance safety and security but instead it leads to more violence and insecurity, especially in the weak states of Africa.<sup>38</sup> Heavy reliance by the state on the private military industry undermines the legitimacy of public security orders and therefore it may be contested by violence.<sup>39</sup> Furthermore, financial and human resources are diverted into the private sector. This leaves public institutions with less money to fulfill their functions and with less manpower because soldiers prefer to work for the companies as the pay is much higher.<sup>40</sup>

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<sup>35</sup> Doug Brooks, “Help for Beleaguered Peacekeepers,” *Washington Post editorial*, June 2, 2003, p. A17, at <http://www.hoosier84.com/030502wpoped.pdf> access March 10, 2007.

<sup>36</sup> Avant, *The Market for Force*, p.253.

<sup>37</sup> Deborah D. Avant, “MERCENARIES,” *Foreign Policy*, Jul/Aug 2004, p.26.

<sup>38</sup> Anna Leander, “The Market for Force and Public Security: The Destabilizing Consequences of Private Military Companies,” *Journal of Peace Research*, vol. 42, no. 5, 2005, p.606.

<sup>39</sup> *Ibid*, p.617.

<sup>40</sup> *Ibid*, p.616.

From a different perspective, PMFs can be used in missions with a high political risk for the western community. In situations where developed nations may be reluctant to commit their own troops, the international community can still bring military force to bear to keep the peace or encourage parties to a conflict to negotiate. The downside of this is that countries can use mercenaries to hide their own involvement in conflicts and to avoid signaling the engagement of a state with the conflict. For example, the Johnson administration wanted to stay in the background during the war in Congo in 1965. Even though there was a political interest of the United States, Belgium and a hired mercenary force acted to execute U.S. policy.<sup>41</sup> Furthermore, the mercenaries helped to take pressure off an overtaxed U.S. military which was heavily engaged in Vietnam.<sup>42</sup>

Ken Silverstein argues that state control is reduced when private companies are hired because much information about the missions is kept under seal. Oversight by government agencies is reduced as this information often is “locked in the companies’ accounting books.”<sup>43</sup> The state has limited opportunities to confirm if the intended political will is carried out. This could be a potential danger for the democratic process as state control is compromised. Furthermore, as Bruce D. Grant postulates, because many contracts between the state and the PMF are not accessible to the public, transparency in foreign policy is not present and the ability of the public and the legislature to “check and balance” executive actions is limited. Consequently, PMFs shape the foreign policy of a state without the public or elected officials involved. The result is that “foreign policy is made by default.”<sup>44</sup>

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<sup>41</sup> Piero Gleijeses, *Conflicting Missions: Havana, Washington, and Africa, 1959-1976*, (Chapel Hill and London: The University of North Carolina Press, 2002), p.128.

<sup>42</sup> Ibid, p.124.

<sup>43</sup> Ken Silverstein, “Privatizing War: How affairs of state are outsourced to corporations beyond public control.” *The Nation*, July 28, 1997 at <http://www.mtholyoke.edu/acad/intrel/silver.htm> , access March 10, 2007.

<sup>44</sup> Bruce D. Grant, “U.S. Military Expertise For Sale: Private Military Consultants As A Tool Of Foreign Policy.” U.S. Army War College, Carlisle Barracks, PA, January 18, 1998, at <http://stinet.dtic.mil/cgi-bin/GetTRDoc?AD=ADA344357&Location=U2&doc=GetTRDoc.pdf> access March 06, 2007.

In reply, defenders of PMFs note that the firms operate within a legal framework which is the same as any “civilian” business. The contracts between the provider and the client are very detailed and account for almost any issue. For example, in addition to describing the mission and the obligations of the client and the contractor, the contract also addresses issues like language requirements, health insurance and environmental issues.<sup>45</sup>

Other concerns about the privatization of force are about regulation and accountability of the hired soldiers themselves. Violations of human rights, criminal involvement and unnecessary use of force are potential side effects when using a private army. For example, during the war in Congo in the 1960s the mercenary force was known for its brutality against its adversaries. Journalist reports revealed that the mercenaries conducted executions and tortures which they portrayed in photos.<sup>46</sup> Even today there are reports that some employees of PMF are involved in criminal activities. For example, a lawsuit by a former DynCorp employee which was filed in Britain in 2001, revealed that DynCorp employees were participating in illegal sex trafficking during their presence in Bosnia.<sup>47</sup>

The UN opposes mercenaries and private military companies which engage in combat operations as threats to human rights and to the sovereignty, political independence and territorial integrity of states. The argument is that they are not politically connected to the society and therefore interfere with the right of people to self-determination. Therefore, the UN issued a condemnation of mercenaries in 2001 which was in addition to a debate that had already lasted for several decades.<sup>48</sup> In December 2003 the UN published a report submitted

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<sup>45</sup> CorpWatch provides the DynCorp-State Department Contract covering February 1998 to January 2003 on <http://www.corpwatch.org/article.php?id=676> access March 02, 2007.

<sup>46</sup> Gleijeses, p.71-73.

<sup>47</sup> CorpWatch, “CSC/DynCorp,” available at <http://www.corpwatch.org/article.php?list=type&type=18> access June 12, 2007.

<sup>48</sup> Thomas K. Adams, “Private Military Companies: Mercenaries for the 21<sup>st</sup> Century,” in *Non-State Threats and Future Wars*, ed. Robert J. Bunker (London: Frank Cass & Co. Ltd, 2003), pp.60-61.

by Enrique Bernales Ballesteros, Special Rapporteur, dealing with the use of mercenaries by private military companies. The report states that international and domestic law needs to regulate the activities of private military companies.<sup>49</sup> It must be assured that these companies do not participate in combat activities and that they refrain from intervening in matters of public order and security, as this is the sole responsibility of the state.<sup>50</sup>

#### **D. CONCLUSION**

This chapter has shown that the idea of the “warrior for hire” has a long tradition in warfare. During every epoch there were, and still are, private military actors who are willing to participate in combat operations as long as someone is paying for their services. The main difference between the private military actors of former times and the PMFs of today is the organizational structure and the increased variety of services offered. The “classic” mercenary acted for own personal benefits whereas modern companies are business entities which seek to increase the profits for the company. The increased variety of services which private military companies offer today has led to a corresponding increase in the pool of potential clients. In former times the mercenary needed war to conduct business. To make a living he had to look for a client who was engaged in an armed conflict. At the same time, the client had to find and then hire the mercenary in order to start a war. This has partially changed today. The private military industry of today does not necessarily depend on combat activities in order to sell its services. Companies hired for *Unarmed Operational Support on the Battlefield* and *Unarmed Military Advice and Training* provide advisory and training services as well as services in the supply and intelligence sector. These companies can fulfill their functions even in the absence of an armed conflict.

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<sup>49</sup> United Nations Report E/CN.4/2004/15 “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self –determination,” submitted by Mr. Enrique Bernales Ballesteros, Special Rapporteur, December 24, 2003, p.20, [http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/69ecaf81b3a74d8ac1256e5b00684da2/\\$FILE/G0317313.pdf](http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/69ecaf81b3a74d8ac1256e5b00684da2/$FILE/G0317313.pdf) access March 13, 2007.

<sup>50</sup> Ibid, p.11.

The client uses their services and expertise to improve troop capabilities and to support a variety of military missions. Contracts for *Armed Operational Support* however, still need combat activities in order to be signed. The service of companies awarded with this kind of contract is directly linked to fighting, whether the companies are hired to fight independently or together with the troops of the client.

The increasing reliance of states on PMFs has not gone unnoticed by the public. Among scholars there is an increased concern that negative repercussions may emerge with an increased reliance on the private military industry. The main concerns are that democracy will be undermined and that the sovereignty of client states will be affected as they share their monopoly on the legitimate use of force with a private actor who is driven by economic principles. In particular, critics argue that PMFs -- as a relatively new phenomenon -- have to this point largely escaped the legal, administrative, and democratic oversight that is necessary for them to be faithful executors of U.S. foreign policy. Promoters of the private military sector, however, argue that PMFs bring much-needed military expertise to regions where the state has already surrendered its monopoly on the use of force to armed challengers.

In a nutshell, there is no consensus on the advantages and disadvantages of PMFs. Many aspects have to be considered in order to obtain a full and precise understanding of this subject. The variety of companies in the private military sector together with the broad spectrum of available services make it difficult to come to a single solution about the curse or blessings of PMFs. Each case has to be regarded on its own and should be evaluated separately. Therefore, the next chapters concentrate on the use of PMFs to implement the foreign policy of the United States towards Colombia over the past decade.

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### III. THE CASE OF COLOMBIA

This chapter describes the extent to which the United States relies on private military firms to implement its foreign policy in Colombia. Since most contractors are engaged in providing support to counternarcotics activities, the focus is on that sector. The first two sections of the chapter describe the evolution of illicit cultivation in Colombia and the efforts of the U.S. and Colombian governments to combat it, both under the rubric of U.S. support for Plan Colombia (2000-2005), as well as parallel efforts to fight armed non-state actors from 2002 on. The third section describes the scope and level of support that private military firms hired by the U.S. government provide to these efforts. The focus is on DynCorp, which is the main firm supporting eradication efforts in Colombia, and MPRI, a firm which attempted to provide strategic consulting services to the Colombian Ministry of Defense. Chapter 4 will assess the costs and benefits of using these firms.

#### A. SITUATION IN COLOMBIA

The situation in Colombia is characterized by a long lasting internal conflict which the country has endured for about four decades, and which is therefore the longest conflict on the Latin American continent.<sup>51</sup> The four main actors who are involved in this conflict are Colombia's regular forces, the recently demobilized paramilitaries AUC (Autodefensas Unidas de Colombia) and the two main guerrilla movements FARC (Fuerzas Armadas Revolucionarias de Colombia) and ELN (Ejército de Liberación Nacional). At the beginning of the conflict, the international community interpreted the internal challenge in terms of the East-West conflict during the Cold War. However, with the rise of the

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<sup>51</sup> Sabine Kurtenbach "Kolumbien," *Studien zur länderbezogenen Konfliktanalyse der Friedrich Ebert Stiftung*, Oktober 2004, p. 5, at <http://library.fes.de/pdf-files/iez/02954.pdf> access March 21, 2007.

cocaine trade in the 1980s, the end of the Cold War and the terrorist acts of September 11, 2001, the focus has been on drug trafficking and terrorism.<sup>52</sup>

In the 1960s and 1970s thousands of peasants fled to the southern part of Colombia into the unpopulated region of the Amazon basin. The reasons for this migration were the existing violence and the unequal distribution of land. At their new settlements the peasants received little support from the Colombian government. No basic services were established, credits to help set up businesses were not provided, and the region lacked the infrastructure for basic trade. The farmers soon realized that planting legal crops did not cover their expenses.<sup>53</sup>

The solution was to plant coca, which became a viable crop in the late 1970s and early 1980s. Now the peasants were able to sell their harvest for a good price and there were more than enough buyers for this product. Soon, the FARC began to charge levies on coca cultivation to finance the movement. In 1999 it was estimated that up to \$100 million of drug money per year was generated.<sup>54</sup> The money from the drug production enabled the guerillas to increase their fighting capabilities and manpower.

Coca cultivation in Colombia increased strongly during the second half of the 1990s, as successful counterdrug efforts in Peru and Bolivia led Colombian cocaine producers to look to cultivators in their own country for leaf. In 1995, 126,000 acres were under coca cultivation; this increased to 251,000 acres in 1998 and to 302,000 acres in 1999. With these numbers, Colombia surpassed the two other large cultivators of coca, Peru and Bolivia, and remains the main cocaine supplier to the United States. In 2001, Colombia was the origin of 90% of the cocaine and 75% of the heroin which was consumed in the U.S.<sup>55</sup>

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<sup>52</sup> Sabine Kurtenbach "Kolumbien," p.6.

<sup>53</sup> Adam Isacson "The Colombian Dilemma- After half a century of fighting, can a fragile peace process succeed?" in *International Policy Report*, February 2000, p. 2 at <http://www.ciponline.org/coipr/coipr001.pdf> access February 27, 2007.

<sup>54</sup> Ibid. p.2.

<sup>55</sup> Nina M. Serafino "Colombia: Conditions and U.S. Policy Options," p.3.

The increase in cultivation benefited the FARC directly since it occurred primarily in southern Colombia where the FARC was traditionally strong. In addition, the FARC was able to expand its activities in the drug business at the time the conflict escalated, beginning in 1996. Having taxed coca production earlier in the 1980s, the FARC later went deeper into the drug business, acquiring its own coca plantations and processing plants and even attempting to branch out into international trafficking by establishing contact with drug organizations like the Mexican Tijuana cartel. This expansion of FARC drug activities was facilitated by the Colombian government's successful efforts to dismantle the Medellín cartel in 1993 and the Cali cartel in 1995. With the drug organizations destroyed there was a vacuum in the drug business which the FARC – and also the paramilitaries -- were more than willing to fill. Indeed, a great deal of the FARC-paramilitary clashes since 1996 have been over territory and working farmers.<sup>56</sup>

Increased revenues from the drug trade allowed both the FARC and paramilitaries to expand in the 1990s, although government efforts to combat both actors have led to a decrease in their numbers in more recent years. Between 1990 and 2000 the FARC increased by 5,000 members to a strength of 17,000. Similarly, the paramilitaries numbered 5,000 by the year 2000, when they had started with only several hundred members in the beginning of the 1990s.<sup>57</sup> As of April 2005, the State Department estimates that the number of FARC members is 12,000 with several more thousand supporters. Press reports, however, indicate that FARC membership is between 12,000 and 18,000. Estimates of paramilitary strength vary greatly. The State Department put the numbers of AUC members between 8,000 and 11,000 in 2003, when paramilitary leaders agreed to a demobilization process with the government. In contrast, the numbers published in press reports were much higher, up to 20,000

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<sup>56</sup> Alexandra Guaqueta, "Political and Economic Dimensions of the Colombian Conflict," Paper written within the framework of the Economic Agendas in Civil Wars research program of the International Peace Academy in New York, 2002, p.7.

<sup>57</sup> Serafino, p.2.

members. Surprisingly, more than 30,000 members of the AUC had demobilized as of April 2006 when the demobilization process officially ended.<sup>58</sup> More than 2,000 members are believed to remain active as they did not participate in the disarmament process.<sup>59</sup>

## **B. U.S. SUPPORT FOR PLAN COLOMBIA**

U.S. policy in Colombia is characterized by an enormous military and financial effort in order to combat the drug trade which fuelled the activities of armed non-state actors within the country. Plan Colombia, initiated during the administration of President Andrés Pastrana (1998-2002), provides a broad and long-term strategy against drug trafficking. Overall, the goals of the U.S. are to establish stability in the Andean region, to protect human rights, and to provide humanitarian aid.<sup>60</sup> U.S. support for Plan Colombia was signed into law on July 13, 2000. Plan Colombia consisted of programs to strengthen the institutions necessary for fighting the drug threat, namely the military, the police and the judicial system.

Between 2000 and 2005, the United States spent approximately \$2.8 billion to fight drug cultivation and provide development assistance. Additional financial support for Colombia has come from the Foreign Military Financing (FMF) program and from the DODs central counternarcotics account. Adding the financial support of the Andean Counterdrug Initiative (ACI), FMF and DOD, the total amount spent by the U.S. support to Colombia is \$4.5 billion.<sup>61</sup> For the year 2006 Congress provided \$469.5 million for the assistance to Colombia. The

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<sup>58</sup> Colleen W. Cook, "Colombia: Issues for Congress," in *CRS Report for Congress*, updated December 13, 2006, pp.8-10.

<sup>59</sup> *Ibid*, p.5.

<sup>60</sup> Testimony of Paul E. Simons, Acting Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, Hearing of the Senate International Narcotics Caucus, June 3, 2003, found at <http://www.ciponline.org/colombia/030603simo.htm> access March 13, 2007.

<sup>61</sup> Connie Veillette, "Plan Colombia: A Progress Report," *CRS Report for Congress*, updated January 11, 2006, p.1.

main portion of the money, \$310.9 million, was for interdiction. Alternative development received \$131.2 million and \$27.4 million went into judicial programs.<sup>62</sup>

Furthermore, Plan Colombia allows the use of military force to fight drug traffickers and inevitably it aims at peasant farmers who would be motivated to abandon the planting of coca and poppies.<sup>63</sup> Regarding coca cultivation, Plan Colombia had a goal of reducing it by 50%.<sup>64</sup> As of 2003 it can be stated that this goal so far has been achieved. According to an estimation of the United Nations Office of Drugs and Crime (UNODC) coca production has decreased by 47% since 2000.<sup>65</sup> In the year 2000, 336.550 acres of coca crops were under cultivation. Until 2003 the numbers decreased due to spraying and aerial fumigation steadily, so that in 2003 281.323 acres of coca crops were cultivated. The cultivation of coca poppy also decreased with 18.533 acres in 2000 and 5.189 in 2003. However, as of the year 2004 the coca cultivation almost remained the same as in 2003. The reason for that is seen in a massive replanting of already eradicated crops.<sup>66</sup>

The amount of coca crop eradicated is as follows: In 2000, 117,054 acres were eradicated and 328,191 in the year 2003. At the same time, 22,867 acres of coca poppy was eradicated in 2000 and 9,464 acres in 2003.<sup>67</sup>

In a recently released note of March 2007, the Bureau of International Narcotics and Law Enforcement Affairs stated that according to the Colombian government 213.724 hectares of coca has been eliminated in 2006. Of this

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<sup>62</sup> Connie Veillette, "Andean Counterdrug Initiative (ACI) and Related Funding Programs: FY2007 Assistance," *CRS Report for Congress*, updated November, 2006, p.6.

<sup>63</sup> Singer, *Corporate Warriors*, p.206.

<sup>64</sup> Cornelius Friesendorf "Drogen, Krieg und Drogenkrieg- Die USA und Kolumbien im aussichtslosen Kampf?" in *WeltTrends*, Nr. 49 (Winter), 13. Jahrgang, 2005, p. 49. "Drugs, War and Drug-War- USA and Colombia in a Hopeless Fight?" (Title translation by author of thesis.).

<sup>65</sup> Connie Veillette, "Plan Colombia: A Progress Report," p.6.

<sup>66</sup> *Ibid*, p.6-8. It needs to be mentioned here that depending on the source of information the numbers may vary significantly. For more information see p.7 and tables on p.8.

<sup>67</sup> *Ibid*, p.6.

amount 171.613 hectares were destroyed by aerial spraying and the remaining 42.111 hectares have been destroyed by manual eradication. Up to now there are no 2006 estimates for coca under cultivation available, yet. In 2005, however, 144,000 hectares of coca have been cultivated.<sup>68</sup>

From the beginning of U.S. support to Colombia, many members of Congress were concerned that the United States might get drawn into Colombia's internal conflict and the country would become "another Vietnam." In particular, members of Congress, among them Senator Robert Byrd and Representatives Ike Skelton and Gene Taylor, saw the danger of an unlimited increase of U.S. forces in Colombia. As a result, strict limits were put on the number of U.S. personnel, both civilian and military, allowed in Colombia.<sup>69</sup> The personnel cap would serve as a kind of "tripwire" for Congress with the intention to keep an eye on the expansion of U.S. involvement in Colombia. Concerns were that U.S. troops would be drawn into a complicated conflict from which, once engaged into, a retreat might be difficult. To avoid this, the military engagement in Colombia should be limited by the cap.<sup>70</sup> At the beginning of support for Plan Colombia in 2000, no more than 500 active military personnel and 300 private contractors were allowed in Colombia. After a change in 2001 the limits were reapportioned to 400 each, military and civilian personnel.<sup>71</sup> In addition, from the beginning of U.S. assistance to Plan Colombia in 2000, both U.S. military personnel and U.S. civilian contractors were forbidden from participating in combat operations.

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<sup>68</sup> Department of State, "International Narcotics Control Strategy Report," March 2007, at <http://www.state.gov/p/inl/rls/nrcrpt/2007/vol1/html/80852.htm> access June 16, 2007.

<sup>69</sup> Adam Isacson, Memorandum to "Preserve the "cap" on the U.S. military presence in Colombia," March 16, 2004, p.1, at <http://ciponline.org/colombia/040322cap.pdf> access March, 29, 2007.

<sup>70</sup> The Center for International Policy's, "House Republicans Want to Abolish Colombia 'Troop Cap,'" May 11, 2004, at <http://www.ciponline.org/colombia/040511cap.htm> access May 27, 2007.

<sup>71</sup> "House Committee Preserves the "Cap" on U.S. Personnel in Colombia," The Center for International Policy's, May 13, 2004, at <http://www.ciponline.org/colombia/040513cap.htm> access March 29, 2007.

During the year 2004 a discussion between the Bush administration and the Congress emerged as the government requested an increase in personnel limits for 2005 to 800 military personnel and 600 civilian contractors. Prior to 2004, an increase of personnel in Colombia was not on the agenda of DOS and DOD. In fact, both departments regularly assured that the existing limits were satisfactory and that there was no need for a higher number of personnel in Colombia. This, however, changed after the Uribe administration implemented “Plan Patriota” at the end of 2003, which was a large-scale offensive by Colombian forces directed against guerrilla strongholds in the south of Colombia.<sup>72</sup> More U.S. personnel was needed in order to satisfy demands for training and planning assistance because of the broadened engagement of the Colombian military.<sup>73</sup>

Congress, however, was concerned about a raise of the cap. Members were worried that this would bring more burden on the overtaxed military which was at the same time heavily engaged in Iraq and Afghanistan. They also feared that the United States would become more and deeper involved in the ongoing conflict in Colombia.<sup>74</sup> Despite this concern, on October 8, 2004, the request of the Bush administration was granted.<sup>75</sup>

Since the restrictions on contractors only apply to U.S. citizens, PMFs (with the blessing of the State Department) have hired foreign employees to work in Colombia. With this practice, it is consequently possible for the private military companies to obey the rules on the one hand and to increase their manpower on

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<sup>72</sup> The Center for International Policy’s, “2004: The ‘troop cap’ debate,” October 8, 2004, at <http://ciponline.org/colombia/04cap.htm> access May 27, 2007.

<sup>73</sup> Testimony of General James T. Hill, Commander, United States Southern Command, hearing of the House Armed Services Committee: "Fiscal Year 2005 National Defense Authorization budget request" March 24, 2004, The Center for International Policy’s at <http://ciponline.org/colombia/040324hill.htm> access May 27, 2007.

<sup>74</sup> Website, “Congressional Concerns Over U.S. Troop Levels in Colombia Persist” at <http://www.usofficeoncolombia.org/media/troopcap.htm> access May 27, 2007.

<sup>75</sup> Adam Isacson, “Congress Doubles the Limit on U.S. Troops in Colombia,” The Center for International Policy’s, October 8, 2004, at <http://www.ciponline.org/colombia/041008cap.htm> access March 29, 2007.

the other hand.<sup>76</sup> Even though the laws specify that only U.S. citizens count against the contractor cap, the PMF practice of employing foreign workers has been criticized by some members of Congress. Among those critics is Representative Janice Schakowsky who argues that the practice subverts Congressional intent to limit U.S. involvement in Colombia: “This seems to be a loophole around the cap, a way to get around them.”<sup>77</sup>

Shortly after the implementation of Plan Colombia and the troop cap approximately 400 civilian contractors were working in Colombia. However, less than half were U.S. citizens. Of 335 DynCorp employees in Colombia, 200 were not U.S. citizens. Other companies which were hired to support the war against drugs, for example Bell Helicopter Textron Inc., Sikorsky Aircraft Corp., Northrop Grumman and Lockheed Martin, had about 80 U.S. citizens in the country which made it a total of at least 400 civilian contractors.

### **C. PRIVATE MILITARY FIRMS IN COLOMBIA**

The United States employs a wide range of private military firms to implement its policy in Colombia. More than fifteen different companies with more than thirty awarded contracts have been engaged in Colombia as of 2003.<sup>78</sup> For FY2002, \$499 million were provided for counterdrug efforts in Colombia. Approximately 30% of the funds were provided for hiring contractors, namely \$149,385,802. DynCorp’s contract for FY2002 was worth \$79.2 million which was 53% of the total amount spent for private contractors. The financial scope for counterdrug efforts increased in FY2006 to \$586.7 million. The proportion spent for the private military industry almost doubled to 53.2%. From the portion spent for contractors, \$312,118,179 DynCorp, again, was the biggest recipient.

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<sup>76</sup> T. Christian Miller, “Colombia: Use of Foreign Pilots Avoids Drug War Policy,” *Contra Costa Times*, August 18, 2001, cited at Media Awareness Project at <http://www.mapinc.org/drugnews/v01/n1516/a11.html> access May 23, 2007.

<sup>77</sup> Ibid.

<sup>78</sup> United States Department of State, “Report on Certain Counternarcotics Activities in Colombia,” FY2002, at <http://www.ciponline.org/colombia/03041401.htm> accessed April 14, 2007.

The contract awarded to DynCorp totaled to the sum of \$164,260,877. Even though the absolute figures increased about half, DynCorp's proportion of the overall funds remained about the same with 52.6%.<sup>79</sup>

Although no firms provide "armed support on the battlefield," they do provide a wide range of services that Avant characterizes as "unarmed operational support on the battlefield" and "unarmed military advice and training." These services range from training personnel and maintaining equipment to operating special equipment for certain missions. For example, Northrop Grumman Systems Corporation, California Microwave Systems is active in the intelligence sector. California Microwave Systems (CMS) operates an airborne system which gathers information about groups connected to the drug business via Imagery and Communications intelligence. The risk for these missions is considered to be moderate to high; CMS personnel are required to complete jungle survival training in order to deal with the possibility of a downed aircraft. Another company which is present in Colombia is Lockheed Martin. This company is the Pentagon's number one contractor, with approximately \$94 million in contracts signed between 1998 and 2003, though in Colombia it has worked for the Department of State as well.<sup>80</sup> Among other services, the company provides maintenance personnel and logistic support for the Colombian National Police and its Black Hawk helicopters. It also provides instructor pilots, trains Colombian maintenance personnel and installs force protection systems.<sup>81</sup>

The following sections focus on the private military firms DynCorp and MPRI. DynCorp is chosen because it plays a major role in U.S. aid to Colombia and is representative of companies (like Northrop Grumman and Lockheed

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<sup>79</sup> The numbers are figured by adding Interdict.+ Alt.Dev.+ DOD from CRS report "Andean Counterdrug Initiative (ACI) and Related Funding Programs: FY2007 Assistance," updated November, 2006 p.7 and putting them into relation to the payments to contractors of the DOS reports "Report on Certain Counternarcotics Activities in Colombia," of FY2002 and FY2006.

<sup>80</sup> The Center for Public Integrity, "Top Contractors by Dollars," at <http://store.publicintegrity.org/pns/list.aspx?act=top> access April 14, 2007.

<sup>81</sup> Department of State, "Report on Certain Counternarcotics Activities in Colombia." FY2002.

Martin) that provide unarmed operational support. MPRI is discussed as representative of a firm that offers consulting and advising services at the strategic level.

Although private military firms and the government tend to be very restrictive in issuing detailed data on PMF activities to the public, it is possible to piece together a story using information from *United States Government Accountability Office* (GAO) reports, State Department required reporting, monitoring by non-governmental organizations, newspaper articles, official statements and PMF websites.

## 1. DynCorp

DynCorp has been engaged in Colombia since 1991, and there is a good deal of information available in regard to their activities in Latin America. The company is one of the world wide leaders of military security services, with over 20,000 employees and a presence in more than 550 locations around the globe.<sup>82</sup> In 2007, its annual revenue was \$2.1 billion.<sup>83</sup> The company has contracts with a wide range of government agencies including the Department of Defense, Department of State, the Drug Enforcement Administration, Department of Justice, Environmental Protection Agency, Federal Communications Commission, Internal Revenue Service and the Treasury Department.<sup>84</sup>

DynCorp was founded in 1946 by pilots returning from World War II. Initially the company was in the air cargo business; at that time the company was named *California Eastern Airways*, using the military contacts of the pilots to establish business, and its first jobs were to fly supplies to Asia during the Korean War. During the following years the Virginia-based company increased

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<sup>82</sup> The Center for Public Integrity "Colombia: Outsourcing War" at <http://www.publicintegrity.org/report.aspx?aid=261> access March 24, 2007.

<sup>83</sup> Website, BusinessWeek, <http://investing.businessweek.com/research/stocks/earnings/earnings.asp?symbol=DCP> access June 13, 2007.

<sup>84</sup> Daniel Burton-Rose and Wayne Madsen, "Corporate Soldiers: The U.S. Government Privatizes the Use of Force," *Multinational Monitor*, March 1999, 20, 3.

its revenues and the range of services offered, making it the 13<sup>th</sup> largest military contractor in the United States. DynCorp merged in March 2003 with a technology service company, *Computer Sciences Corporation*, which acquired DynCorp for almost \$1 billion.

Since 1991, the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) has hired DynCorp to support eradication efforts undertaken in the Andean region by the department's Aviation Program. A five-year contract, worth approximately \$99 million, was signed in 1991. Between 1996 and 1998, State signed DynCorp to three interim contract extensions, before awarding a second five-year contract in 1998, worth approximately \$170 million.<sup>85</sup> In 2005, DOS awarded DynCorp with a third eradication and interdiction contract which was worth \$174 million annually.<sup>86</sup>

The contracts state that DynCorp is responsible for maintaining U.S. aircraft used in the drug eradication program. Furthermore, DynCorp provides training in maintaining the aircraft and conducts initial pilot training. All this takes place on U.S. soil—namely, at Patrick Air Force Base, Florida. Additionally, DynCorp maintains and flies aircraft used for eradication in Latin America, and trains Bolivian, Colombian and Peruvian personnel to perform these tasks, too. DynCorp also trains Colombian army personnel under the State Department's Plan Colombia helicopter program.

As of July 31, 2001, the State Department's Office of Aviation had 101 aircraft and helicopters assigned to the *Aviation Program*. The majority of them were stationed in Colombia. The fleet in Colombia consisted of 2 C-27 transport aircraft, 5 OV-10D and 5 T-65 eradication aircraft, 6 UH-1H and 40 UH-1N helicopters and one C-208 for crop identification.<sup>87</sup>

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<sup>85</sup> GAO report GAO-01-1021, "Drug Control- State Department Provides Required Aviation Program Oversight, but Safety and Security Should Be Enhanced," September 2001, p.3.

<sup>86</sup> Business Wire, "DynCorp International Again wins State Department Contract for Narcotics Eradication and Interdiction." May 19, 2005.

<sup>87</sup> GAO report GAO-01-1021, p.18.

As of 2001 DOS had 24 staff members assigned to the *Aviation Program*. Of these staff members three were stationed in Washington, D.C., for overall coordination and administrative support, and 11 members were at Patrick Air Force Base, Florida, for managing the aviation program for the overseas locations and overseeing the activities of DynCorp. On the Latin American continent 10 staff members (four in Bolivia and three each in Colombia and Peru) were assigned as aviation advisers to oversee DynCorp activities.<sup>88</sup>

At the same time DynCorp had a total of 545 employees to work within that program. Of those, 154 were stationed at Patrick Air Force Base from where they managed and supported other DynCorp personnel in Latin America. Additionally they maintained the aircraft belonging to the program and provided initial pilot training. In Bolivia and Peru DynCorp had 20 and 27 employees, respectively, who were assigned to train helicopter mechanics for the aircraft in those countries. The majority of DynCorp personnel, however, was stationed in Colombia where 344 employees worked as pilots, mechanics, and managers, training Colombian Army personnel and supporting the Colombian National Police eradication program. Less than a third of these workers were U.S. citizens, and hence did not count against the contractor cap<sup>89</sup> These numbers show clearly that DynCorp is mainly responsible for the execution of the *Aviation Program*. DOS only provided limited personnel for planning and supervision. DynCorp flies the aircrafts for eradication, maintains the hardware and trains local forces.

Flying eradication missions over insurgent-controlled territory is risky – in the year 2000 alone, over 60 INL aircraft were struck by ground fire -- and led DynCorp personnel into the direct line of fire.<sup>90</sup> The risk was so great that the GAO was asked in 2004 to conduct an investigation into the safety of the State

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<sup>88</sup> GAO report GAO-01-1021, p.17.

<sup>89</sup> GAO report GAO-01-1021, p.18.

<sup>90</sup> Department of State, "State Department Aviation Program Wins Federal Award," Media note, Office of the Spokesman, June 29, 2001, at <http://www.state.gov/r/pa/prs/ps/2001/4003.htm> access June 13, 2007.

Department's Aviation Program.<sup>91</sup> According to the report DynCorp personnel are involved in providing security on eradication missions. Each eradication aircraft was assigned two or three helicopter gunships to provide air coverage. Each helicopter is manned with U.S. contractors and members of the Colombian National Police. The tasks of the civilian contractors is either piloting the helicopter or acting as a medic. The job of the gunners is executed by a crew member of the Colombian National Police. In 2001, DynCorp provided two contractor pilots and two crew members for the search and rescue aircraft.<sup>92</sup> Additionally, it was agreed that intelligence information about hostile armed forces in eradication zones would be supplied directly to the State Department's Office of Aviation and DynCorp. Furthermore, DynCorp was authorized to hire six more employees whose tasks were to gather and analyze intelligence in order to make future eradication missions safer.<sup>93</sup>

In addition to providing security, DynCorp also has been involved in Search and Rescue missions, which come close to qualifying as combat operation. According to an ex-employee of DynCorp, the company has some employees "of the highest caliber--Delta guys, SEAL team guys..." posted in Colombia.<sup>94</sup> Those "guys" are trained specialists in anti-terror, evacuation, close combat and reconnaissance missions. Furthermore, the ex-employee claimed that DynCorp personnel were involved in rescue missions of army personnel whose tasks were not related to the counternarcotics program. Singer, too, mentions that DynCorp is engaged in more kinds of operations than just crop eradication. In February 2001, a Colombian military helicopter was shot down by

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<sup>91</sup> GAO report GAO-04-918, "Drug Control- Aviation Program Safety Concerns in Colombia Are Being Addressed, but State's Planning and Budgeting Process Can Be Improved," July 2004, p. 3.

<sup>92</sup> The Center for International Policy's, "State Department Fact Sheet: Civilian Contractors and U.S. Military Personnel Supporting Plan Colombia," May 22, 2001, at <http://www.ciponline.org/colombia/052201.htm> access June 12, 2007.

<sup>93</sup> GAO report GAO-04-918, p.12.

<sup>94</sup> Jason Vest, "State Outsources Secret War," *The Nation*, May 23, 2001, at <http://www.thenation.com/doc/20010604/vest20010523> access April 23, 2007.

guerrilla forces. DynCorp launched a Search and Rescue (SAR) mission with armed special forces and helicopter gunships. During this mission, the gunships shot at enemy ground forces while other helicopters rescued the downed crew. DynCorp did not issue a statement for this incident.<sup>95</sup>

## **2. MPRI**

Military Professional Resources Inc. (MPRI) is one of the best known companies in the private military industry, working both for the United States government and clients worldwide. The company was founded in 1987 by high-ranking ex-U.S. military officers and many recruited employees have had high positions in the U.S. military. Among the founders and employees of MPRI are: Carl Vuono, General, U.S. Army, Ret., former Chief of Staff of the United States Army (1987-1991); Harry E. Soyster, Lieutenant General, U.S. Army, Ret., former head of the Defense Intelligence Agency (1988-1991); Crosbie E. Saint, General, United States Army, Ret., former Commander in Chief Central Army Group Europe (1988-1992).

MPRI was awarded several contracts by the United States government to help implement its policy in Colombia. The company was hired to provide advice to the Colombian government, to national police forces and the Colombian military. At the early stage of *Plan Colombia*, MPRI and the Colombian government signed an agreement for assessment work which was worth \$850,000. The assessment work would last six weeks and MPRI was supposed to assist the Colombian government in developing a three-phase plan which would be realized after the aid package was completely financed. Later, MPRI managed to get another contract worth over \$6 million for conducting a second project. In mid 2000, MPRI sent a team to Colombia to work with the Colombia national police and the military. Led by a former U.S. Army general, the MPRI employees and the Colombians engaged in several areas including military

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<sup>95</sup> Singer, *Corporate Warriors*, p. 208.

training, logistics and intelligence.<sup>96</sup> Located at the Colombian Armed Forces High Command in Bogotá, MPRI employees worked together with Colombian staff officers and developed recommendations which should improve the performance of the Colombian military.<sup>97</sup> This project basically was very similar to a mission in the Balkans where MPRI was hired by the Croatian government.

In the mid 90's the young Croatian Republic hired MPRI with the objective to get assistance in creating a professional military. Croatia was among the first which separated from former Yugoslavia and suffered severely under attacks from the Serbian minority out of the region Krajina. Those attacks were supported by Yugoslav military forces which made the situation for Croatia even worse. After a recommendation of the Pentagon, the Croatia government contacted MPRI and awarded the company two contracts which had the overall goal to increase the capabilities of the Croatian forces. In following operations the Croatian forces could achieve tremendous victories over Serb forces and literally swept away Serb defenses. After this success which was surprising for many actors, U.S. officials and the MPRI management downplayed the role of MPRI. However, military experts recognized that without the assistance of MPRI the Croatian military would not have been able to conduct the military operations in this professional manner.<sup>98</sup>

In Colombia, though, the government was not as satisfied with the work of MPRI as the Croatian government was. Consequently, the contract between the Colombian government and MPRI did not last for the planned timeframe. The contract was terminated in May 2001 by the Colombian side because the team which MPRI had sent had no Spanish speakers and lacked sufficient knowledge and expertise for the scenario which prevailed in Colombia. The recommendations presented by MPRI were seen on the Colombian as either of minor importance or inappropriate. For example, "apply appropriate military

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<sup>96</sup> Singer, *Corporate Warriors*, p. 133.

<sup>97</sup> The Center for Public Integrity "Colombia: Outsourcing War"

<sup>98</sup> Singer, *Corporate Warriors*, pp. 125-126.

capability prudently,” and “accurate and timely delivery of mail enhances the quality of life for the men and women in the field,” were some phrases articulated in MPRI’s advice.<sup>99</sup> Obviously, as the mission in Croatia has shown, MPRI’s employees are more proficient in dealing with traditional conflicts than with low – intensity conflicts.<sup>100</sup>

#### **D. CONCLUSION**

The aim of U.S. engagement in Colombia is the fight against drugs and terrorism. PMFs and especially DynCorp with its engagement in the eradication program play an important role in implementing U.S. foreign policy towards Colombia. Given the *troop cap*, it is very likely that at many times more contractors than military personnel have been active in Colombia. This is particularly the case since PMFs have been able to hire non-U.S. citizens for their activities in Colombia, thus circumventing congressionally-imposed limits on contractor personnel.

While DynCorp seems to have performed its primary eradication mission competently, it has also been tasked with gathering intelligence information about rebel forces in eradication zones, conducting reconnaissance flights in order to obtain a picture about coca plantations, piloting gunships during eradication missions and conducting search-and-rescue operations. All these missions, in particular the latter two, are risky and veer close to the prohibited engagement in combat activities. The mission which had the lowest risk level -- MPRI’s task to work with the Colombian Ministry of Defense to develop a strategic plan for supporting Plan Colombia -- failed due to the incompetence of the company.

The following chapter goes beyond issues of competence to address in more detail the extent to which the use of PMFs in Colombia contributes to a foreign policy which is both effective and in conformance with norms of democratic accountability.

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<sup>99</sup> The Center for Public Integrity “Colombia: Outsourcing War”

<sup>100</sup> Singer, *Corporate Warriors*, p.133.

## **IV. IMPLICATIONS FOR U.S. POLICY IN COLOMBIA**

This chapter assesses the costs and benefits of using private military firms as key agents for implementing U.S. policy in Colombia. First, the implications of the use of PMFs for the military will be presented as, generally, PMFs are hired to execute missions which originally are the responsibility of the military. Is the military in rivalry with the private military industry or is the use of PMFs a welcome assistance for overtaxed forces? Among other items this section points out how the use of PMFs affects the long-term flexibility and capabilities of both the U.S. and Colombian armed forces. The second section looks more broadly at the implications for the executive branch of relying on PMFs to implement its foreign policy. It uses internal government documents and GAO reports to show that state reliance on PMFs in Colombia has not been cost effective and that the state has been largely ineffective in overseeing PMF activities. In addition, the reliance on contractors creates dependencies and risks that the state has not fully considered.

The third section highlights the legal vacuum in which PMFs work, leading to a lack of accountability as national and international laws have not yet been adequately adjusted to govern the actions of PMFs. Finally, the chapter explores the impact the private military industry has on the democratic principle of checks and balances, undermining the ability of Congress (and the public) to access the information necessary to oversee the implementation of foreign policy. In addition, the behind-the-scenes influence of PMFs on the making of foreign policy arguably undermines the responsiveness of policy makers to the public. The chapter concludes by noting that although the United States has experienced some minor disadvantages by using PMFs as a tool in the execution of its foreign and security policy in the short run, these are likely to increase in the long-run.

## A. IMPLICATIONS FOR THE MILITARY

One problem that emerges with the increasing privatization of the military sector is a growing loss of certain control functions and specific capabilities of the regular forces.<sup>101</sup> A study on the outsourcing of governmental services has found that institutions which have lost the capacity to execute specific services become more and more dependent on the private industry. In the long run these governmental institutions will lose the knowledge and expertise to control and to evaluate the privately offered services, including pricing structures, as they lack competent personnel which would be able to maintain oversight.<sup>102</sup> Limited capabilities in specific areas could have negative consequences for the military and the state regarding foreign policy and security issues due to the dependence on private contractors. This is an undesired development because the military loses the flexibility to act on its own and to execute its mission independent of the market situation.

While the loss of capacity is usually a long-run development, the *United States General Accounting Office* (GAO) [now the Government Accountability Office] has suggested that this is also a concern in the short run, given the Department of Defense's increasing reliance on contractors for "vital services."<sup>103</sup> Does the military have the capability and flexibility to proceed without support from the outside and is it able to find alternatives within a short period of time? The GAO study shows that the Department of Defense (DOD) has failed to enumerate these vital services and has not developed an emergency plan in case these contractors withdraw from the contracts.<sup>104</sup> With more than 15 civilian companies helping to implement U.S. aid in Colombia it is unlikely that all

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<sup>101</sup> Ann Markusen, "The Case Against Privatizing National Security," paper presented at the Study Group on the Arms Trade and the Transnationalization of the Defense Industry, New York, October 1, 1999, revised, January 2001 at [http://archive.epinet.org/real\\_media/010111/materials/markusen-doc.pdf](http://archive.epinet.org/real_media/010111/materials/markusen-doc.pdf) access May 09, 2007.

<sup>102</sup> Ann Markusen, "The Case Against Privatizing."

<sup>103</sup> GAO report GAO-03-695, "Military Operations- Contractors Provide Vital Services to Deployed Forces but Are Not Adequately Addressed in DOD Plans," July 2003.

<sup>104</sup> GAO report GAO-03-695, p.3.

contracts would cease at the same time. However, some companies, for example DynCorp, are in key positions for certain operations (e.g., the aerial eradication program).

Military contractors also create a dilemma for the regular military when they engage in activities where they encounter enemy fire. This raises the question of whether the military is responsible for the protection of civilian contractors and how to handle situations which have a dangerous potential.<sup>105</sup> This issue is discussed in the U.S. military, however, it seems that no solution has been found, yet.<sup>106</sup> In Colombia, employees of PMFs frequently encounter fire from rebels, especially when they are engaged in the aerial eradication of the illicit coca and poppy fields that are a source of financial support for the guerrillas. The rescue of three contractors taken hostage during one of these excursions has now become SOUTHCOM's priority mission in Colombia.<sup>107</sup>

The training of military personnel by private military companies affects U.S. forces as well as the Colombian army. This can lead to a further decrease of capabilities as more money is invested in the training capacity of the private company rather than that of the national military. In the long run the forces may not be capable to provide qualified training on their own. This could result in the perception that training is no longer a core task of the regular forces and therefore preferences to focus on high-tech warfare are reinforced.<sup>108</sup>

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<sup>105</sup> Gordon L. Campbell, "Contractors on the Battlefield: The Ethics of Paying Civilians to Enter Harm's Way and Requiring Soldiers to Depend upon Them." A paper prepared for presentation to the Joint Services Conference on Professional Ethics 2000 Springfield, VA, January 27-28, 2000 at <http://www.usafa.af.mil/jscope/JSCOPE00/Campbell00.html> access May 09, 2007.

<sup>106</sup> Lourdes A. Castillo, "Waging War with Civilians. Asking the Unanswered Questions." *Aerospace Power Journal*, Fall 200, at <http://www.airpower.maxwell.af.mil/airchronicles/apj/apj00/fal00/castillo.htm> access May 9, 2007.

<sup>107</sup> Posture Statement of Admiral James G. Stavridis, United States Commander, United States Southern Command before the 110<sup>th</sup> Congress, House Armed Service Committee, March 21, 2007.p.7.

<sup>108</sup> Deborah D. Avant, "Privatizing Military Training." *Foreign Policy in Focus*, Volume 5, No 17, June 2000, p.2.

In addition, private military companies often lure away highly trained and specialized personnel from the regular forces by offering higher salaries. The recruitment and training of this personnel normally is very expensive and time consuming and the PMFs benefit from the large initial investment in this made by the tax payers. High senior military officials already complain that the migration from the regular forces into the private military sector has increased massively.<sup>109</sup> This affects both the military of the country employing the PMFs, as well as the military of the country receiving the assistance. In the case of Colombia, a GAO report notes that in January 2003 65 Colombian Army personnel were chosen to receive additional training after the completion of a basic helicopter maintenance course. Twenty-two of the selected personnel did not attend the training and neither the Colombian Aviation Battalion nor the U.S. Military Group could account for their whereabouts.<sup>110</sup> Similarly, of 19 Colombian Army personnel trained as pilot-in-command on UH-1N helicopters, only one showed up for duty. As with the Colombian mechanics, it was not possible to locate them.<sup>111</sup> Other sources claim that these individuals have left the Colombian armed forces in order to work for private military companies like DynCorp.<sup>112</sup> The financial offers of the private military industry are very lucrative and attractive. DynCorp offers a pilot \$119,305 a year whereas a contractor hired by the Colombian National Police only earns \$45,000 a year.<sup>113</sup> The

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<sup>109</sup> Ian Traynor, "The privatization of war." *The Guardian*, December 10, 2003 at <http://www.guardian.co.uk/international/story/0,,1103566,00.html> access May 12, 2007.

<sup>110</sup> GAO report GAO-03-783, "Drug Control- Specific Performance Measures and Long-Term Costs for U.S. Programs in Colombia Have Not Been Developed." June 2003, p.14.

<sup>111</sup> GAO report GAO-03-783, p.15.

<sup>112</sup> Virginia M. Bouvier, "Colombia Quagmire: Time for U.S. Policy Overhaul," *International Relations Center Americas Program*, September 2003, at <http://americas.irc-online.org/briefs/2003/0309colombia.html> access May 13, 2007.

<sup>113</sup> The Associated Press, "End Sought to Cocaine Contractors," *The New York Times*, May 7, 2001, available at <http://www.mapinc.org/drugnews/v01/n805/a05.html> access May 13, 2007.

wages for members (as opposed to contractors) of the security services are even lower, with Colombian National Police helicopter pilots earning salaries as low as \$29,000 annually.<sup>114</sup>

The participation of so many private companies in providing U.S. military assistance to Colombia may also decrease the relevance of the military as it is partially replaced by PMFs as an executive institution. One purpose of U.S. military aid to Colombia is the establishment of a close contact between the U.S. military and Colombian forces. This *military-to-military contact*, however, is to a certain degree reduced in favor to a *corporate-to-military contact*. With less *military-to-military contact* it becomes more difficult to build alliances between the forces and “the ability to conduct coalition operations based on past mutual training experience would also be lowered.”<sup>115</sup>

## **B. OVERALL IMPLICATIONS FOR THE U.S. GOVERNMENT**

From a narrow economic perspective, it may make sense for the U.S. government to use PMFs for certain operations. As a client, the government buys the “product”, in this case service, from a company and receives the “outcome” that means the execution of its intended political will if everything goes well and according to plan. It is a “one time payment” as, in contrast, to the much larger investment it would otherwise have to make to maintain a standing army large enough to implement the services that are contracted out.

While there is some merit to this argument, the cost savings provided by contractors are less obvious when contractors are allowed to over-bill the government or when the U.S. government must continue to pay contractors for services that should have been taken over by the personnel of aid recipient countries. In the case of Colombia, internal State Department audits of DynCorp operations revealed that the company overcharged in some cases and misspent public funds in other cases. For example, one 2005 State Department audit

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<sup>114</sup> GAO report GAO-01-26, “Drug Control- U.S. Assistance to Colombia Will Take Years to Produce Results.” October 2000, p.17.

<sup>115</sup> Singer, *Corporate Warriors*, p.179.

revealed that DynCorp over-billed the U.S. government by more than \$1.8 million for diverse disbursements to its employees in Peru and Colombia.<sup>116</sup> Audits from the 1990s, obtained by *The Dallas Morning News* under the Freedom of Information Act, revealed a longer-term pattern of overbilling and deficient accounting practice.<sup>117</sup>

In addition to overbilling, the use of contractors can be expensive rather than cost effective when the government relies on them over a long time period instead of investing in partner nation capabilities.

This adds to the fact that even after years of training Colombian pilots still are not able to replace DynCorp in the aerial spraying missions, even though this was required in a contract DynCorp signed with the State Department in 1995. Three years later, a study by the GAO pointed out that there could have been significant cost savings as the costs of supporting DynCorp in FY1996 with \$6.6 million increased dramatically to \$36.8 million in FY1999.<sup>118</sup>

A possible benefit of hiring private military companies for the executive branch is that it allows the government to reduce the visibility of certain mission outcomes to the public. As mentioned earlier, the eradication missions executed by DynCorp in Colombia are not without risks. The aircrafts flown by civilian employees are armed and the helicopter gunships for their protection have been involved in several firefights with the rebels. Even though some DynCorp aircrafts have been downed by enemy fire, killing DynCorp employees, there has been “no public outcry in response to these losses.”<sup>119</sup> Consequently, the U.S.

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<sup>116</sup> Tod Robberson, “DynCorp has big role, little oversight in war efforts,” *The Dallas Morning News*, February 9, 2007, at <http://www.dallasnews.com/sharedcontent/dws/news/world/stories/122406dnintldyncorp.32c4b08.html> access June 15, 2007.

<sup>117</sup> Ibid.

<sup>118</sup> Tod Robberson, “Afghanistan deal could net DynCorp over \$2.1B,” *The Dallas Morning News*, February 9, 2007, at [http://www.dallasnews.com/sharedcontent/dws/news/world/stories/122406dnintdyncorp\\_colombia.3b3cdf08.html](http://www.dallasnews.com/sharedcontent/dws/news/world/stories/122406dnintdyncorp_colombia.3b3cdf08.html) access June 15, 2007.

<sup>119</sup> P.W. Singer, “Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security.” *International Security*, Vol. 26, No. 3, Winter 2001/2002, p.218.

government faces less public critique and attention than it would if American soldiers were killed. In short, the government can intervene in Colombia without worrying about the electoral consequences. Congresswoman Cynthia McKinney (D) criticized the U.S. government exactly for this matter when she wrote in an open letter to the Secretary of State Colin Powell:

If these private military corporations are being used to avoid public scrutiny and the bad publicity that might ensue from body bags coming home due to an unpopular and poorly explained foreign adventure, then use of PMC's and quite possibly the entire Colombia policy are not sustainable...<sup>120</sup>.

Other concerns are that some actions, mainly mistakes by the PMFs or uncontrolled behavior of the employees, could have negative repercussions for U.S. foreign policy. Some missions of PMFs, for example, the involvement of Airscan in the bombing of a village where eighteen civilians were killed, could backfire with the result that the U.S. government is involved in more fighting than intended, all without a prior public discussion.<sup>121</sup> The rebels do not distinguish between the civilian contractors and the regular forces of the U.S. military. Arguably, the use of PMFs – who pilot gunships that return fire during eradication missions -- contributed to the fact that the guerrillas see the United States as an actor who participates in the armed conflict.<sup>122</sup>

One consequence of using PMFs is that the United States faces a partial loss of sovereignty as it hands over certain aspects of its foreign and security policy to an actor driven by economic interests. With few personnel assigned to control and oversee the activities of the PMFs in Colombia, as mentioned in the previous chapter, the implementation of the intended political will may not always be assured as profit driven companies may act differently than state institutions

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<sup>120</sup> Congresswoman Cynthia McKinney, "Inquiry Into Private Military Companies in Colombia," Open letter to Secretary of State Colin Powell, March 15, 2001, at <http://www.1worldcommunication.org/privatemilitarycompanies.htm> access May 22, 2001.

<sup>121</sup> P.W. Singer, "Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International, 219.

<sup>122</sup> Nicole Elana Karsin, "Escalating U.S. Casualties in Colombia," *Colombia Journal Online*, April 14, 2003, at <http://www.colombiajournal.org/colombia154.htm> access May 15, 2007.

do. PMFs are limited by the financial scope of the contract and, as a result, tailor their activities accordingly. This could mean that in order to achieve the largest profit, the PMF may choose the cheapest solution – rather than the best and most effective -- whereas public institutions like the military often have a different approach.<sup>123</sup> For example, it became public that prior to several crashes of aircrafts operated by the PMF California Microwave Systems in Colombia, employees and pilots raised concerns that the single engine Cessna 208 is not powerful enough for missions in mountainous terrain. They considered it too risky to fly with this underpowered aircraft and recommended the replacement of the Cessna with the twin-engine Beech King Air 300. This switch was rejected by the company because of the higher costs of that aircraft.<sup>124</sup>

The delegation of foreign policy implementation to private actors might be acceptable if the United States were able to oversee PMF activities effectively. However, there are a number of indications that this is not the case. The GAO, for example, has determined that the Department of Defense has problems with the oversight of contractors which support deployed U.S. forces. According to GAO, this is a long-standing problem of the Department and it exists throughout the whole organization.<sup>125</sup> In the case of Colombia, another GAO report suggests that the State Department has been effective in overseeing the aviation program which DynCorp plays the central role in.<sup>126</sup> With the focus on Colombia, the GAO held interviews with officials of DOS, the U.S. Embassy in Bogotá, and U.S. government and DynCorp officials at on-site locations in Florida and Colombia.

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<sup>123</sup> Singer, *Corporate Warriors*, p.155.

<sup>124</sup> Kevin Sack, Rachel Van Dongen and T. Christian Miller, "Pilots Voiced Doubts About Planes in Colombia Crashes; U.S. contract workers said the single-engine Cessnas involved in two recent accidents were unsuited to the Andean terrain.", *The Los Angeles Times*, March 27, 2003, cited on website of Representative Jan Schakowsky at [http://www.house.gov/schakowsky/article\\_03\\_27\\_03pilotscolombia.html](http://www.house.gov/schakowsky/article_03_27_03pilotscolombia.html) access April 24, 2007.

<sup>125</sup> GAO report GAO-07-145, "Military Operations: High-Level DOD Action Needed to Address Long-standing Problems with Management and Oversight of Contractors Supporting Deployed Forces," December 2006.

<sup>126</sup> GAO report GAO-01-1021, "Drug Control- State Department Provides Required Aviation Program Oversight, but Safety and Security Should Be Enhanced," September 2001.

In addition, the GAO inspected relevant documents and contract evaluation reports.<sup>127</sup> The overall findings of the investigation were that the State Department Office of Aviation did execute its oversight over DynCorp by regularly gaining information about DynCorp's performance through frequent communication and by submitting a follow on evaluation of the performance on a monthly basis.<sup>128</sup>

Despite this positive finding that the formal procedures of oversight were followed, there is reason to doubt the ultimate effectiveness of the process. In an internal memo, the State Department's director of aviation in the Bureau of International Narcotics, John McLaughlin, argues that the State Department is incapable of adequately overseeing the Aviation Program. He notes that the department has an "inherent inability to provide knowledgeable oversight and support for technical and operational programs."<sup>129</sup> In particular, McLaughlin argues that DOS is not capable of fully understanding the complexity of certain missions of its Air Wing. He makes a forthright statement saying that: "Dodging trees and ground fire over jungle terrain at 200 mph is not diplomacy, and diplomats cannot be expected to fully comprehend the complexity of the task and the level of support required."<sup>130</sup>

Relying on PMFs also leads to a partial loss of sovereignty as the state shares its monopoly on the legitimate use of force with a private actor.<sup>131</sup> The U.S. government emphasizes that the PMFs in Colombia only serve in the support sector and do not participate in combat operations. However, the execution of search and rescue missions and reports about employees of DynCorp using weapons in Colombia show that there is a gap between theory

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<sup>127</sup> GAO report GAO-01-1021, "Drug Control- State Department Provides Required Aviation Program Oversight, but Safety and Security Should Be Enhanced," September 2001, p.2.

<sup>128</sup> Ibid, p.13.

<sup>129</sup> Robert Novak, "Does State Department need its own air force?" *The Chicago Sun-Times*, September 25, 2003.

<sup>130</sup> Ibid.

<sup>131</sup> Singer, *Corporate Warriors*, p.170.

and reality. Some news reports even suggest that DynCorp personnel play an active role in counterinsurgency missions in the south of Colombia, the stronghold of the FARC.<sup>132</sup> Furthermore, it could be argued that maintaining and operating weapons systems and gathering intelligence information are crucial elements for the execution of force.

### **C. LACK OF LEGAL ACCOUNTABILITY**

The use of PMFs also creates dilemmas of regulation and accountability. In particular, there are few national or international laws that govern the actions of PMFs, creating situations where PMFs engage in wrongdoing and are not held accountable. A few examples from Colombia illustrate this point.

In order to protect their pipeline in Colombia, Occidental Petroleum and Ecopetrol hired a private military company, the Florida-based Airscan. According to the contract, Airscan should provide reconnaissance and aerial security as the pipeline was subject to rebel attacks. In one instance, the pilots of Airscan coordinated an airstrike against a suspected rebel stronghold by providing target information to Colombian air force attack planes. During this attack, which mistakenly targeted the wrong village, eighteen civilians were killed, among them nine children. The U.S. embassy in Colombia did not support the investigation of this incident, which happened in 1998, even though the Colombian government asked for assistance.<sup>133</sup> In the end, none of the employees of Airscan was held accountable and consequently none received any kind of punishment for their mistakes.<sup>134</sup>

Another example is provided by the outcome of a lawsuit the International Labor Rights Fund filed against DynCorp in September 11, 2001, on behalf of 10,000 Ecuadorian peasant farmers and Amazonian Indians. The complaint is against the company's aerial spraying of fields with herbicides near the

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<sup>132</sup> Burton-Rose and Madsen, p.19.

<sup>133</sup> P.W. Singer, "War, Profits, and the Vacuum of Law: Privatized Military Firms and International Law," *Colombia Journal of Transnational Law*, Vol. 42, 2004, p.539

<sup>134</sup> Singer, *Corporate Warriors*, p.221

Colombian-Ecuadorian border in January and February 2001. Although the U.S. government tends to dismiss the harmfulness of the herbicide to humans, there is some basis to believe that the ingestion of the spray (either directly or through the contamination of drinking water) could cause some harm. In fact, some news reports indicate that pesticide drift has already caused more than 1,100 cases of illness including two cases which ended fatally.<sup>135</sup> In the lawsuit, the plaintiffs argue that DynCorp violated the Alien Tort Claims Act (ATCA) and the Torture Victim Protection Act (TVPA).<sup>136</sup> The case was finally dismissed by the Court of the District of Columbia in the United States. However, this case got the attention of the U.N. Working Group on the question of the use of mercenaries because DynCorp claimed that “it is necessary to keep in mind that the ATCA and the TVPA don’t cover the behavior of the private corporations.”<sup>137</sup> For the Working Group this argument implies “that some States could be hiring PMSCs in order to avoid direct legal responsibilities” and it calls attention to the need to establish national and international legislation regarding PMFs.<sup>138</sup>

There is limited legal leverage to hold PMFs or their employees accountable in case something goes wrong as international law as well as national law of most countries fail to address the phenomenon of PMFs. Employees of PMFs are not subject to military jurisdiction unless Congress declares war on a country and civilian contractors support U.S troops in that country.<sup>139</sup> They also are in a grey zone under the Geneva Conventions as they are neither soldiers nor, regarding the full definition, mercenaries. International

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<sup>135</sup> Jeffrey St. Clair and Alexander Cockburn, “Ecuador: Farmers Fight DynCorp’s Chemwar on the Amazon,” *CorpWatch*, February 27, 2002, at <http://www.corpwatch.org/article.php?id=1988> access May 14, 2007.

<sup>136</sup> *Ibid.*

<sup>137</sup> United Nations, “Mission to Ecuador,” Report of the Working Group on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, A/HRC/4/42/ADD.2, February 23, 2007, p.18, at <http://www.ohchr.org/english/bodies/hrcouncil/docs/4session/A-HRC-4-42-Add-2.pdf> access May 14, 2007.

<sup>138</sup> *Ibid.*, p.18. The Working Group refers to **Private Military and Security Companies** as PMSCs.

<sup>139</sup> Campbell.

law and regulations have not reacted adequately, yet, to regulate the wide variety of private military companies. One reason is that the majority of PMFs offer services which seem to be not directly linked with combat activities. This is especially true for *Military Support Firms* which were discussed in the second chapter. The support sector is the largest sector of PMF activities, however, it draws the least public attention. The common misunderstanding is that logistics and supply are not part of combat activities. However, without these services it would not be possible for fighting troops to carry out their missions.

The lack of international law brings the dilemma of regulation to the national level even though PMFs act internationally. However, “all but a few states’ domestic statutes currently ignore PMFs’ very existence.”<sup>140</sup> Furthermore, PMFs often operate in weak or failed states where local authorities may not be capable of enforcing the rule of law. This is the case in Colombia where the rule of law is generally considered to be quite weak. In addition to the weakness of the state there are other reasons why misbehavior of PMFs and their employees sometimes is not prosecuted. On the one hand the Colombian government is interested in not endangering the relationship with the United States by prosecuting U.S. citizens. On the other hand, the operations of the PMFs are concentrated against domestic groups which oppose the state and therefore the government tolerates a certain level of misbehavior or criminal acts against these groups. In Colombia, until recently, the military had a long history of violating human rights when fighting against these groups.

One might assume that U.S. laws would apply to PMFs based in the United States, however, this has not usually been the case for activities which take place outside of U.S. territory. The 2000 Military Extraterritorial Jurisdiction Act represents a first effort by the U.S. Congress to close the gap of missing laws. The Act establishes that the Military Code of Justice should be applied to civilians who serve in U.S. military operations which take place outside of U.S.

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<sup>140</sup> Singer, “War, Profits, and the Vacuum of Law: Privatized Military Firms and International Law.” pp.524

territory. The flaw, however, is that the Act only addresses civilian contractors who are hired by the U.S. Department of Defense and who work on U.S. military facilities.<sup>141</sup> Other civilians who are hired by other clients, for example the Central Intelligence Agency, the State Department, or foreign states, are not affected by this regulation. Furthermore, as a Judge Advocate with the U.S. Marine Corps states, “the law itself still is not fleshed out and no one is quite sure how and when to apply it.”<sup>142</sup> One consequence could be that employees act in a vacuum of law where they do not expect prosecution for criminal activities.

This legal vacuum can also have negative implications for the employees of PMFs because international conventions and laws do not only regulate the behavior of combatants but also determine their rights. The status of civilian contractors who fall into captivity is not explicitly regulated. Therefore it is not assured that they receive treatment according to international humanitarian law but, rather, may be treated as criminals.<sup>143</sup> In February 2003 an intelligence plane hired by the U.S. government crashed in Colombia over FARC territory. Three men, all employees of the PMF California Microwave Systems, were taken hostage by the rebels. The rebels granted them the status of prisoners of war<sup>144</sup>, in order to bolster their claim that the country is in a state of war and that the insurgents should be granted “belligerent” status by the international community. Despite this, the hostages’ official legal status has not been clarified nor have the responsibilities of the involved companies towards their employees been

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<sup>141</sup> United Nations, “The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation,” report E/CN.4/2005/14 submitted by Shaista Shameem, Special Rapporteur, December 8, 2004, p.13, at <http://daccessdds.un.org/doc/UNDOC/GEN/G04/167/92/PDF/G0416792.pdf?OpenElement> access June 15, 2007.

<sup>142</sup> Singer, “War, Profits, and the Vacuum of Law: Privatized Military Firms and International Law.” p.537.

<sup>143</sup> Avant, *The Market for Force*, p.230.

<sup>144</sup> Website People’s Daily, “Colombia Identifies Three US Hostages Held by FARC,” April 23, 2003 at [http://english.people.com.cn/200304/23/eng20030423\\_115652.shtml](http://english.people.com.cn/200304/23/eng20030423_115652.shtml) access May, 14, 2007.

determined in regard to that situation. This irregularity stems from the fact that ten days after the capture the contracts of the men were transferred to a newly formed company, CIAO, INC.<sup>145</sup>

A further problem is that due to their structure many companies have the possibility to transform, meaning to dissolve and recreate within a short period of time, in order to escape regulation and prosecution.<sup>146</sup> They can either move to another country or rename themselves which, for example, the South African company Executive Outcomes did in 1998 after domestic regulation of PMFs was on the agenda of the South African government. Bigger companies which have not the possibility to dissolve within a short period of time can transform to several smaller companies to avoid certain aspects of regulation.

The preceding examples illustrate how diffuse and unclear the legal situation of PMFs is and how responsibility and accountability is shifted from one actor to another with no one accepting them. To implement international laws which clearly regulate the matters of PMFs, a common political will of the international community of nations is mandatory.

#### **D. ACCOUNTABILITY TO THE CONGRESS AND PUBLIC**

The use of PMFs has direct implications for the democratic system where the Congress is a controlling institution of the Executive branch. It is a system of *checks and balances* by which Congress participates in foreign policy decision making and oversees its implementation.<sup>147</sup> The public plays an important role in this system too, as think tanks and other citizen groups monitor government (and Congressional) activity by demanding and reviewing information on government activities. This system, however, is undermined by the use of PMFs as a tool for foreign policy in a number of ways. In particular, the difficulty of gaining information about the activities of PMFs greatly reduces the ability of the

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<sup>145</sup> Avant, *The Market for Force*, p.233.

<sup>146</sup> Singer, *Corporate Warriors*, p.75

<sup>147</sup> Grant, p.12.

legislature or the public to monitor foreign policy. For example, in the early stage of Plan Colombia the Pentagon, upon a request under the Freedom of Information Act, did not reveal the contract of MPRI's engagement in Colombia. The request asked for information on all MPRI contracts in Latin America. Neither DOD nor DOS nor MPRI released the contract due to "proprietary reasons."<sup>148</sup>

In order to oversee policy implementation, Congress needs to be informed about the actions of the government. While in general the executive branch is not required to report on contracts with PMFs that are under \$50 million,<sup>149</sup> in the case of Colombia Congress imposed much stricter reporting requirements. Upon approving the funds for Plan Colombia in July 2000, Congress articulated its requirements for information. Notably, the President is required to submit a bimonthly classified report to Congress containing the number, locations, activities and lengths of assignments of U.S military and civilian contractor personnel.<sup>150</sup>

Additional reporting requirements were introduced under the 2003 Foreign Relations authorization bill, which obliges the Department of State to compile an annual report which identifies U.S. businesses hired by DOS or DOD in support of counternarcotics activities in Colombia. These reports must provide the following information:

- a) Name of U.S. business and description of the counternarcotics activities;
- b) Total value of all payments by DOS and DOD for such activities;
- c) A statement justifying the decision to contract for services;
- d) Assessment of risk to personal safety of contractor workers; and

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<sup>148</sup> The Center for Public Integrity. "Colombia: Outsourcing War.

<sup>149</sup> Grant, p.13.

<sup>150</sup> State Department, "Fact Sheet: Civilian Contractors and U.S. Military Personnel supporting Plan Colombia," May 22, 2001, The Center for International Policy's, at <http://www.ciponline.org/colombia/052201.htm> access,

e) Plan to transfer activities to Colombian nationals<sup>151</sup>

The kind of information requested suggests that Congress shares a number of the concerns discussed in the preceding section, namely the dangers of putting contractors in risky situations and a worry that the U.S. government is spending money on contractors rather than investing in partner nation capacity.

One might assume based on these reporting requirements that Congress is well informed about activities of PMFs in Colombia, however, this seems not to be the case. The description of activities is kept in general terms. If members of Congress want to have more information they have to investigate on their own. This, however, is even for them no easy act. “Members of Congress have a hell of a time getting information about DynCorp and other contractors,” complains Representative Janice Schakowsky.<sup>152</sup>

Efforts to get detailed information on contracts between the U.S. government and DynCorp have been blocked in order to protect DynCorp’s commercial secrets. DynCorp argues that this measure is necessary in order to maintain its competitiveness on the security market (e.g., cost-per-employee figures, which could be used by DynCorp’s competitors to underbid it in the future).<sup>153</sup> According to a company spokesman, DynCorp acknowledges the need for more accountability, however, for the interest of its client, the U.S. government, the company prefers to “seek a low profile.”<sup>154</sup> The government is also reluctant to provide anything but the minimally required information. In fact, the State Department initially opposed Congress’s request for an annual report on contractors, arguing that the Department “cannot easily track and report on DOD’s contract activities” and citing their concern that “recurrent, public reporting of the names of businesses under contract to the Department of State to support

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<sup>151</sup> State Department, “Report to Congress On Certain Counternarcotics Activities in Colombia,” FY2006 report at <http://ciponline.org/colombia/0706cont.pdf> access June 15, 2007.

<sup>152</sup> Tod Robberson, “DynCorp has big role, little oversight in war efforts,”

<sup>153</sup> Ibid.

<sup>154</sup> Ibid.

counternarcotics activities is likely to increase the security risks to these businesses and their employees both in Colombia and the United States.”<sup>155</sup>

Private companies are not obliged to report to Congress like other state institutions are. There is no public control over the contracts between the client and the company. Additionally, the U.S. government and the civilian contractors are very conservative in providing detailed information about known operations of PMFs. For example, presently only two of the annually required reports to Congress about contractor support for counternarcotics activities in Colombia are accessible to the public; the first, covering FY2002 contracts and the last, released in June 2007, covering FY2006 contracts.<sup>156</sup> Even though it is no secret that the U.S. government uses PMFs in Colombia, DynCorp employees who are stationed at the San Jose del Guaviare military base in southern Colombia are strictly forbidden from discussing their missions with the media.<sup>157</sup> Staying “below the radar” is obviously the company’s policy. Being secretive is good for the business and increases the chances for further contracts. Or as Colonel Schumacher, a retired Special Forces Officer puts it: “If you do things quiet enough, you’ll continue to get more business from the U.S. government.”<sup>158</sup>

Finally, PMFs shape foreign policy decision making in a way that is not transparent to the public and thus reduces the accountability of policy makers to their constituents. Some of the PMF influence is exerted through the Congress via lobbying and campaign donations. In 2001, the private military industry spent more than \$32 million on lobbying and contributed more than \$12 millions to

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<sup>155</sup> State Department's section-by-section analysis of the foreign relations authorization bill that State submitted to the Senate, From the Congressional Record, April 3, 2003: Pages S4849 - S4856,” at <http://www.fas.org/asmp/resources/govern/108th/s790is-StateAnalysis.htm> access June 15, 2007.

<sup>156</sup> The Center for International Policy’s “U.S. Government fact sheet and reports,” at <http://www.ciponline.org/colombia/aidgovt.htm> access June 15, 2007.

<sup>157</sup> Burton-Rose and Madsen, p.19.

<sup>158</sup> Tod Robberson, “DynCorp has big role, little oversight in war efforts,”

political campaigns. DynCorp was one of the top ten donors among PMFs, giving more than \$500,000 to the Republican Party between 1999 and 2002.<sup>159</sup>

Much of the influence, however, comes from incestuous contacts between former government officials on the board of directors of PMFs and their erstwhile colleagues who remain in office. The excellent connections of some PMFs, for example MPRI, to the Pentagon and the Department of State have already been pointed out. Many former high ranked military and civilian personnel of these institutions are employees or even founders of PMFs and they use their old contacts to the benefits of the companies. The Board of Directors of DynCorp now contains many of the key government players (now retired) in eradication efforts in Colombia, with their high-level connections. These include Marc Grossman, former Undersecretary of State for Political Affairs who participated in the implementation of Plan Colombia and advocated DynCorp for aerial spraying; and General Barry McCaffrey, ex-chief U.S. Southern Command (retired 1996) who helped to develop Plan Colombia while he served as “drug czar” (director of the Office of National Drug Control Policy). Other directors (without connections to Colombia) include Admiral Joseph W. Prueher (retired 1999) and General Anthony Zinni (retired 2000).

## **E. CONCLUSION**

As this chapter has shown, the use of PMFs in Colombia by the United States is not without problems and in some instances runs counter to the political intentions of U.S. foreign and security policy, despite executive and congressional efforts to monitor the PMFs. One goal of U.S. engagement in Colombia is the strengthening of democracy and the training of local Colombian forces. However, extensive use of PMFs is arguably counter productive to that goal as *military-to-military contact* is weakened and as contractors have been

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<sup>159</sup> David Isenberg, “A Fistful of Contractors: The Case for a Pragmatic Assessment of Private Military Companies in Iraq,” British American Security Information Council, Research Report 2004.4, September 2004, p.40 at <http://www.basicint.org/pubs/Research/2004PMC.pdf> access May 2, 2007.

used for long periods, in lieu of developing Colombia capabilities. The fact that PMFs lure personnel from local national forces into the private industry with attractive financial offers also does not contribute to the goal of strengthening national forces.

In addition, the executive branch faces other problems when it delegates the implementation of its foreign policy to private actors: a loss of a monopoly on the legitimate use of force, cost ineffectiveness (overbilling), and the risk of illegal or risky behavior by PMFs. These problems are exacerbated by shortcomings in the executive branch's ability to oversee the actions of PMFs, either because the issue is neglected altogether (as is the case with the Department of Defense) or because of lack of expertise (as was the case with the Department of State and DynCorp).

The chapter has also shown that national and international laws need to be adjusted in order to regulate the accountability of private military companies. This is not only important for the United States as negative repercussions on the international level could be avoided but also for the employees of PMFs hired by the United States so that they have an official, legal status.

Most importantly, the chapter shows that PMFs severely undermine the ability of the Congress and the public to oversee the implementation of foreign policy. It is even more remarkable that this is the case with U.S. policy towards Colombia, since Congress requires the executive branch to provide far much more information about contractor activity in Colombia than in almost any other case. Finally, the chapter has shown that PMFs do not only execute but also shape to a certain degree foreign and security policy. With good connections to the Pentagon and to high state officials, and by lobbying and funding political campaigns, the private military industry is able to incorporate its economic interests into the foreign and security policy of the United States.

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## V. CONCLUSION AND RECOMMENDATIONS

PMFs have come to play an increasingly important role throughout the world and in the execution of U.S. foreign and security policy since the end of the Cold War. In response to this development, the academic and policy community has engaged in a heated debate over the pros and cons of relying on PMFs, mostly in Africa and in other areas (like Iraq) where the United States has had a limited historical presence. This thesis extends the debate to U.S. policy in Colombia, which has been characterized by an enormous military and financial effort to combat the drug trade and the violence of terrorist groups, which are heavily involved in the drug business. PMFs play a major role in the fight against drugs, particularly in the U.S.-funded aerial eradication program. In addition, the United States has relied on PMFs to assist in the transformation of the defense sector, which was a key part of Plan Colombia. Given the importance of Colombia to U.S. foreign policy, it is essential to determine whether PMFs have contributed to or undermined U.S. objectives in the country.

U.S. reliance on PMFs in Colombia was chosen as a case study because, in many ways, it is a “least likely” case to experience the abuses or transgressions that typically plague the sector. PMFs in Colombia do not provide warfighting capabilities, but rather operational support and consulting services, which are presumably less prone to abuse. The State Department had been engaged in significant contracts with PMFs since at least 1991, allowing it time to create procedures and develop expertise in overseeing the sector during a period of relative calm. In addition, U.S. assistance to Colombia was a key foreign policy issue prior to 9/11 and, as such, received a great deal of scrutiny from Congress and the public. The U.S. Embassy in Colombia was well positioned to oversee the activities of U.S.-funded PMFs within the country, in contrast to the situation in post-conflict or newly democratic countries where there is little history of a U.S. presence. Finally, while a great deal of aid was provided to Colombia, it did not reach the staggering level of spending in Iraq, which is presumably harder

to monitor. If, despite these expectations, the use of PMFs in Colombia proves to be problematic (i.e., has more costs than benefits), we should be especially concerned with the increasing reliance of the United States on the private military industry for the implementation of its foreign policy objectives. If, in contrast, the U.S. has been able to use PMFs effectively in Colombia, then it might provide some useful lessons for how PMFs might be employed in an accountable fashion elsewhere in the world.

The third chapter concentrated on Colombia and on some selected private military companies which were hired by the United States. Concerning PMFs, the main focus was on the companies MPRI and DynCorp which were hired to conduct completely different tasks in Colombia. Hired to provide advisory and consulting service, MPRI did not meet the expectations of the Colombian government, resulting in the termination of the contract prior to the planned timeframe. The other private military company, DynCorp, is the main private implementer of drug eradication programs in Colombia (as well as Bolivia and Peru). As the third chapter pointed out, PMFs do not always act according to the contracts or existing legal limitations and restrictions. With a reduced number of State Department personnel to oversee and control the activities of PMFs, specifically DynCorp, those limitations and restrictions are prone to be circumnavigated by PMFs in Colombia. Furthermore, DynCorp has been engaged in a firefight with rebels despite the restriction that private companies are not supposed to participate in combat. The fact that on behalf of the U.S side, namely the State Department, no statements or more information about that incident have been issued, leads to the assumption that even though combat activities by PMFs are officially not supported, they are at least tolerated to a certain amount. This, however, could lead to the conclusion that the United States does not only use PMFs as a tool in the execution of its foreign and security policy how it is known publicly but that private military companies are also used in missions hidden from public view.

The fourth chapter examines the costs and benefits of relying on PMFs and finds that the use of the private military industry is not without problems even for states with strong institutions like the United States. By delegating certain aspects of its foreign and security policy to a private actor, the state reduces its sovereignty and its monopoly on the legitimate use of force. Aggravating that situation is that this new actor is not adequately addressed in national and international laws. Furthermore, heavy reliance on PMFs could lead to a dependency on the private military industry which could create problems for the state as well as for the military. In the long run the military loses certain capabilities if PMFs take over certain tasks of the regular forces and the state consequently needs then to rely more on PMFs. This may create a vicious circle of dependency, especially when the private military industry is able to increase its influence on political decisions by lobbying and campaign sponsoring. Additionally, in democratic systems like the one in the United States where the concept of *checks and balances* prevails, which is seen as a guarantee of the democratic system, control mechanisms could be undermined with a high reliance on private military companies. The consequences are that the balance of power shifts in favor to the Executive as the Legislature loses parts of its power. In sum, even though PMFs have been subject to much greater regulation in the Colombian case than in other instances, the executive branch lacks the ability to oversee their activities adequately and there is still a significant deficit of accountability to the Congress and the public.

Overall, despite the problems with the use of PMFs which emerge for the state and the democratic system, it is unlikely that the state will rely less on this sector. The opposite is happening as over the last years the private military industry experienced a boom. Consequently, the international community should turn its attention to this issue and develop regulations and programs so that negative implications can be avoided. Some critics of PMFs have proposed legislation that prohibits the use of U.S. funds for contracts with PMFs in the Andean region (e.g., Representative Jan Schakowsky's 2001 proposed Andean

Region Contractor Accountability Act H.R. 1591).<sup>160</sup> This is not feasible, however, as PMFs play a vital role in U.S. foreign policy towards Colombia and elsewhere. It is doubtful if not impossible to continue, for example, the coca eradication program without the support of DynCorp. Therefore it is necessary to focus on regulation and oversight rather than on initiatives ending all cooperation with PMFs.

In order to deal with the subject of regulation, four elements must be addressed by the international community as well as by individual states:

International recognition and standards: The international community has to acknowledge the existence of the private military industry. Still, there are states which ignore the existence of PMFs and therefore see no need to implement laws which regulate their activities. International standards have to be developed with a consensus about definitions and functions of private military companies. However, the Special Rapporteur of the UN mentioned in several reports that still no consensus about a definition of mercenaries and private military companies exists in the international community. Furthermore, the reports state that there is an urgent need to regulate PMFs in order to increase accountability.<sup>161</sup>

Improvement of transparency: The private military industry mostly operates below the horizon of public attention. Contracts between the agent and the principal (the state), however, need to be made available to the Legislature in order to improve political oversight. This applies whether the client is a state institution or a private enterprise. In the United States, the Congress is only required to be notified of PMF involvement when the financial scope of an individual contract exceeds \$50 million, a “tripwire” that can easily be circumvented with multiple contracts below that amount. This limit needs to be

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<sup>160</sup> The Center for Public Integrity “Colombia: Outsourcing War.”

<sup>161</sup> For more information see: United Nations, “The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation,”; United Nations, “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self –determination.”

lowered so that legislative oversight is increased. Furthermore, Congress should consider introducing a mandatory reporting level based on the amount of hired personnel and length of the assignment.

Indeed, the regulations and reporting requirements the Congress imposed on PMFs in Colombia should be codified and extended to all other cases – after correcting for their shortcomings. Since PMFs see themselves as legal business enterprises they should, like other “normal” companies be obliged to reveal information about financial activities. The Legislature should determine what constitutes “proprietary information”, e.g. special training techniques or tactical procedures, in the private military industry. This may change depending on the service for which the company is hired. If sensitive data are involved, a committee which is eligible to oversee proprietary or classified data has to be established in order to guarantee Congressional oversight. Unclassified data should be made accessible to public in order to strengthen public oversight within the democratic system.

Erection of controlling mechanisms: PMF contracts must be checked by competent controlling boards which are familiar with the private military industry and legal issues. Within executive agencies, controlling boards should be created which examine the contracts and other related documents in order to ensure compliance with national and international laws. Furthermore, these boards should function as a system which monitors the activities of PMFs. In the past, the GAO has provided some studies on the accountability of PMFs. However, these studies are not carried out on a regular basis but rather conducted in response to a request from Congress. The introduction of controlling boards, obliged to provide reports on a regular basis could not only improve oversight but would give the Legislature an opportunity to react faster if there is a need for intervention.

Implementation of a sanctioning system: In case of misbehavior of PMF employees or non-compliance with the contract by PMFs, sanctions must be

available. Depending on the severity of non-compliance, the sanctioning system needs several levels ranging from, for example, financial penalties to revoking of the license to conduct business.

Sanctions are an important tool for guaranteeing the compliance of PMFs with contracts and existing regulations. Critics of PMFs in Colombia repeatedly complain that the United States does not punish DynCorp in cases of misbehavior. The heavy reliance on DynCorp in the eradication program, with no apparent alternative, leads to the conclusion that the U.S. government is in a certain way willing to accept certain irregularities. This, however, undermines any attempts taken to increase accountability of PMFs.

As mentioned previously, the increased reliance on the private military industry and its influence on foreign and security policy also has implications for political science. More research to investigate this influence is necessary to understand certain processes in regard to the monopoly of force and the effects upon sovereignty as some of them are relatively new since the end of the Cold War. And finally, to complete the picture of the private military industry and the use of PMFs, empirical studies in the financial sector regarding the cost efficiency of PMFs versus state institutions surely would be very interesting. This could help state institutions decide whether and what kind of service should be outsourced into the private sector.

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