

UNITED NATIONS INTERVENTION IN CIVIL CONFLICTS AND THE UTILITY
OF PRIVATE MILITARY SECURITY COMPANIES

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Abstract

The current global environment and technological advancements of society has led to an increase in the visibility of crisis throughout the international community. Humanity cannot stand idly by as spectators to humanitarian crisis on the scale of what we have seen in recent years. For this reason it is vital that an international mechanism for intervention be as proficient and capable as possible, to respond rapidly and effectively, to situations as they unfold. The United Nations is the only entity poised to fulfill this role. Therefore it is imperative to learn from the successes and failures of this organizations intervention attempts in order to duplicate strategies that work and take corrective actions for strategies that failed.

For this reason, this paper looks at several UN successes and failures in order to glean information on why each one succeeded or failed. The scope of this paper does not allow for a complete review and therefore further research should follow. When highlighting problems, it is also important to present potential solutions. For this reason I explore the potential viability of a dedicated United Nations response force via the utilization of Private Military Security Companies.

By reviewing several case studies involving both UN Peace Keeping Operations and UN Nation Building Operations, several limitations to UN effectiveness can be highlighted. This includes a lack of flexibility, inability to muster adequate force and inability to react to the changing environments. Each of these limitations is predicated on the UN mandate and their dependence on the member states for support which comes

primarily when there is a vested interest by a state or when the atrocities reach a level of international crisis.

The incorporation of Private Military Security Companies would solve many of the inadequacies observed with UN response however; there are several steps that are required prior to being able to implement this approach. This includes the stigma associated with these groups and the current lack of available oversight or accountability protocols established to govern these groups. Therefore, under the current environment this option is not feasible.

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For my wife Courtney, without whose support, encouragement and understanding this goal could not have been reached.

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I. Introduction

“More than ever before in human history, we share a common destiny. We can master it only if we face it together. And that is why we have the United Nations.” — Kofi Annan

The purpose of this thesis is to observe the effectiveness of third party intervention on civil conflicts, with a focus on the United Nations (UN). It will also discuss how the International community can deal with these conflicts, as external factors, like globalization, continue to increase the strain of failed states on the international community. According to 2014 statistics, as presented by the Fragile State Index, one hundred and twenty six countries are considered less than stable, with Thirty Four countries being in an alert status.¹ In order to develop strategies going forward it is important to look back at both the successes and failures of the United Nations and offer hypothesis on improving the UN response to failed states. Based on my personal experiences and interests, part of this inquiry is meant to determine if the incorporation of Private Military Security Companies into the UN strategy would be a viable option for future interventions.

Since the Cold war there has been a shift in focus from interstate conflicts based on the circulation of ideology, to a rise in civil conflicts and failed states, left in the wake of the fall of the Soviet Union and the shift away from a western colonization philosophy. With the incorporation of technology and the rise of the global media machine, the humanitarian atrocities associated with many of these conflicts do not allow for the international community to continue standing idly by. The primary international responses to these atrocities have been driven several international organizations like the

¹ Haken et al. (2014) Fragile States Index 2014, The Library fund for peace. Retrieved March 12, 2015 from Library.fundforpeace.org.

United Nations, North American Treaty Organization (NATO) European Union (EU) or Organization of African Unity (OAU). The United States has also played a key role in many of the past international interventions in regards to funding, providing personnel or expertise, or flexing its soft power, as the global hegemon through international pressure. The United States has also interfered directly with other nations under the guise of humanitarian responsibility and has been the compelling force behind coalition building in order to intervene for their own self-interest, for example Iraq and Afghanistan. The United States is currently entering a stage of war weariness and economic downturn as the federal budget deficit continues to climb. There is currently a lack of political will, or societal will, for continued military or financial intervention in the affairs of foreign countries. At the same time the atmosphere of national security has shifted towards the geo-political realm, or the international community, with the rise of global terrorism, transnational crime and the possible international ramifications of climate change. As these are international problems it is necessary that an international body position themselves to respond to the inevitable crisis that will continue to occur in the future. The primary body, with the current history of international intervention and predominate legitimacy, to accomplish this mission is the United Nations.

This thesis is divided into three interconnected chapters that are designed to take a look at some of the past interventions associated with the United Nations. These parts are divided into peacekeeping operations, nation building operations and a final chapter on the efficacy of Private Military Security Companies (PMSC's) and their emerging role in civil conflicts.

The first chapter provides a description of the United Nations structure, budget and mandate to the International community and highlights several key terms utilized throughout the chapter. Most of the literature on this topic was divided into pre-Cold War and post-Cold War era's based on the shift in geopolitical strategies that occurred at this time. This paper focuses on the post-cold war era and further divides UN response to pre September 11, 2001 and Post September 11, 2001. Some of the literature attempted to use empirical data to determine peacekeeping efficacy however the results of the various academics appears inconclusive as they all appear to poke holes in the criteria used to formulate each other's data. The general consensus from most authors however is that United Nations Peacekeeping operations do maintain positive influence on creating and maintaining peace.² Several authors utilized case studies and highlighted the possibility that the UN's own structure could be the catalyst for the difficulty in determining its efficacy at peacekeeping. From the literature two primary points of weakness were established. First that the UN requires cooperation from the conflict parties in order to intervene and second that they do not maintain an operational force and are therefore reliant on their member states. This often means that they lack the necessary speed and flexibility to respond effectively.

In order to delve into these issues I utilized the Peacekeeping operations of Somalia and Sierra Leone as case studies. The Somalia operation highlighted the fact that operations can change very quickly and often outside the control of the UN, therefore the UN must inject flexibility into its operational planning. The Sierra Leone operation

² Hoeffler, Anke. "Can international interventions secure the peace?." *International Area Studies Review* 17, no. 1 (2014): 75-94.

highlighted the importance of the UN expanding its mission when necessary beyond peacekeeping operations to nation building operations.

The second chapter transitioned into the natural next phase in UN operations from Peacekeeping operations to Peace Building operations. The first part of this chapter provides an explanation for this transition as well as identifying why it is important to distinguish between these two UN types of operations. It also includes the potential conflicts between them. The literature focuses on these conflicts but includes the caveat that they are not mutually exclusive and can actually be contradictory. You can have a peacekeeping operation without injecting peace building but you cannot build a state without first incorporating an established peace. In actuality, the compromise necessary for the establishment of peace may actually thwart any chance for continued peace.

Intervention itself may weaken state institutions or could bypass local leaders. The author Roland Paris points out that the liberalist ideals of democracy and free market economy also promote conflict amongst political parties or between businesses for the market.

³Therefore the implementation of either should be slow. This may not be feasible as it would be a hard sell for the member states funding the intervention. The Author Eva Bertram focuses on the UN's own mandates of neutrality during conflict resolution and the noninterference within sovereign affairs as blockades to effective peace building.⁴

The case studies utilized to validate these theories were the UN responses to the Rwandan and Namibian crisis. Rwanda being an example of what many would say was a failed attempt at peace building and Namibia being a historically determined positive outcome. Both interventions were hampered by insufficient personnel. For Rwanda, the

³ Paris, Roland. *At war's end: building peace after civil conflict*. Cambridge University Press, 2004.

⁴ Bertram, Eva. "Reinventing Governments the Promise and Perils of United Nations Peace Building." *Journal of Conflict Resolution* 39, no. 3 (1995): 387-418.

initial monitoring force was insufficient and then, in response to aggression, the force was initially reduced further prior to being reinforced. For Namibia the force deployed was immediately smaller than what was anticipated due to a lack of support from member states. The most significant difference for this mission was the diversity of the UN coalition. This group included soldiers, law enforcement and support elements to include election experts. Also the UN did stray from their neutrality mandate by recognizing the opposition force as the legitimate leadership for Namibia.

As I believe there is a defined necessity for UN intervention in civil conflicts and as highlighted above, several discrepancies in the structure and response of the UN to these conflicts, it is also important to look at available alternatives that could bolster UN response. For this reason, the third chapter looks at the use of Private Military Security Companies (PMSC) during civil conflicts in an attempt to observe their viability as a potential asset to the UN. The vast majority of the literature on PMSC's focused on the international communities attempt to hold these entities accountable for violations of social and international law. There is also expansive literature on the industries own attempt to establish their legitimacy within this international community. Examples of potential accountability are the establishment of the Montreux document, the use of International Humanitarian Laws or the use of domestic laws of the home state, like the Uniformed Code of Military Justice (UCMJ) for Department of Defense (DOD) contractors. On the opposite side the International Code of Conduct for Private Security Service Providers (ICoC) is a voluntary assurance from PMSC's that they will abide by the suggestions of the Montreux document. This code was established by the International Committee of the Red Cross (ICRC), but has been recognized by the UN

and incorporated into their mandates for the hiring of PMSC's. Since it is voluntary, it is a means by which PMSC's can set them apart on the international stage.

In order to test the literatures hypothesis on a lack of regulation for PMSC's and to challenge their legitimacy within the international community, two case studies were conducted based on high profile incidents involving PMSC's. The first case study covered the Nisur Square incident in 2007 and the second covered the Abu Ghraib prison scandal. Both of these were covered heavily in the international media and therefore are highly publicized incidents. For the Nisur square case study the various options for prosecution and investigation were observed and tested. The findings were that, in this scenario, there is currently no clearly defined regulatory body for the investigation and potential prosecution of the contractors involved. While the Department of Justice has recently achieved convictions for those involved in the Nisur square incident, there remains questions on the constitutionality of these convictions as the case heads to the US Federal Court of Appeals⁵. For Abu Ghraib the end results have been very different. While the military entities involved in the scandal faced punishment, the contractors did not because there was no clear method of prosecution. Both of these examples bolster the point that PMSC's require clearly defined regulation in order to move into the realm of international legitimacy.

⁵ Apuzzo, Matt. "*Blackwater Guards Found Guilty in 2007 Iraq Killings*" New York Times, October 22, 2014. Accessed April 26, 2014 from <http://www.nytimes.com/2014/10/23/us/blackwater-verdict.html>

II. UN Peacekeeping Operations:

*“The U.N.'s impartiality allows it to negotiate and operate in some of the toughest places in the world. And time and again, studies have shown that U.N. peacekeeping is far more effective and done with far less money than what any government can do on its own.”---
Ban Ki-moon*

We live in tumultuous times. Since September 11, 2001, many terrorist organizations have formed, the Arab Spring has overthrown several established governments in the Middle East and Africa and the Palestinian/ Israeli conflict continues to rage. These events illustrate how fundamentally different ideological beliefs can cause interstate tensions or conflicts. However, turmoil may be the only consistent variable within the last century. With globalization and the worlds continued acceleration towards modernity, atrocities that used to be a world away are now being played out in our living rooms. The United Nations (UN) maintains a responsibility to its original mandate of maintaining peace throughout the world. In this chapter we will look at the UN structure, its role in regards to maintaining the peace and, through the use of case studies, some potential flaws in the UN structure that may weaken its overall effectiveness.

The United Nations, a successor to the League of Nations, was formally established in 1945 as a cooperative entity between 51 states.⁶ The UN Charter for this international organization, spurred by fresh memories of two world wars, focuses predominately on maintaining peace and stability between all nations of the world.⁷ Today, the UN has 192 sovereign nation members and its legitimacy is unquestioned.⁸ With a primary mandate to maintain peace, the question remains, are Peace Keeping

⁶ United Nations Department of Public Information. 2000. *Basic facts about the united nations*, United Nations Publications, Pg. 1

⁷ Ibid Pg. 1

⁸ Fasulo, Linda M. 2009. *An insider's guide to the UN*, Yale University Press. Pg. 5

Operations (PKO's) still a viable tool and are they effective in implementing this mandate?

The UN is the quintessential international organization with a yearly operational budget of roughly \$2.5 billion. This figure does not include subordinate agencies such as World Health Organization (WHO), or the United Nations Children's Fund (UNICEF) whose total budgets can reach nearly \$20 billion each year.⁹ The UN is divided into six principle organs that include the Secretariat, the Security Council, the General Assembly, the International Court of Justice, the Trustee Council and the Economic and Social Council.¹⁰ While the primary mandate is international peace, this organization also maintains committees responsible for providing guidance, assistance, regulation or even legal enforcement for topics that range from HIV epidemics, climate change, development, humans rights, international law or even aviation regulation, all designed to ensure a stable global community .¹¹

The peacekeeping mandate falls under the organ of the Security Council which includes five permanent states and ten elected member states, that rotate regularly, who vote on mandates to control the vast arsenal of peacekeeping options at their disposal.¹² Under this main organ exists the Department of Peacekeeping Operations (DPKO) and the Department of Field Support (DFS) which are charged with carrying out and logistical support for, the peacekeeping operations mandated by the Security Council.¹³

The authority for these actions comes from the United Nations Charter, Chapter VII,

⁹ Ibid Pg. 153-154

¹⁰ Ibid Pg. 6

¹¹ United Nations Department of Public Information. 2000. *Basic facts about the united nations*, United Nations Publications, p 188, 218, 228 and 267

¹² Ibid p 8: Permanent Members: China, France, Russia, United Kingdom, and United States. Current Members: Argentina, Australia, Chad, Chile, Jordan, Lithuania, Luxembourg, Nigeria, Republic of Korea and Rwanda.

¹³ Fasulo, Linda M. 2009. *An insider's guide to the UN*, Yale University Press. p 103

Article 42, which states that the Security Council “may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security.”¹⁴

This broad mandate makes viable the option to utilize military force to create peace. This is of course not their first option as article 41 of Chapter VII discusses the initial use of sanctions.¹⁵

The UN maintains several terms for peace, each with its own distinct meaning:

Table 1- UN Terms for Peace

<u>Term</u>	<u>Definition</u>
Peace Building	Promotion of peace prior to/ or post conflict
Peacemaking	The use of diplomacy
Peace Enforcement	The use of some extent of force

Source: Fasulo, 2009, p108

Note: *The extent of force is often thought of as the differential between hard and soft power*

With so many options at their disposal, the United Nations labels their missions based on the actions taken to resolve the conflict. These titles are too vast to mention them all, but some examples are transition assistance groups, observer groups, verification groups, security forces, protection forces or civilian police missions.¹⁶ In general, all of these require personnel to be on the ground and in direct contact with the area of conflict, but not all personnel are armed and usually even the armed forces do not engage in offensive actions. Since 1948, there have been 68 UN engagements under the peacekeeping umbrella. Fifteen of these engagements are active operations.¹⁷ Because of

¹⁴ Ibid Pg. 43

¹⁵ Ibid Pg. 77

¹⁶ United Nations “UN Peacekeeping Operations” www.un.org. December 31, 2013.

<http://www.un.org/en/peacekeeping/resources/statistics/factsheet.shtml> (accessed February 9, 2014).
Examples of UN labels for action: UNOSOM: United Nations Operation Somalia, ANAMIR: United Nations Assistance Mission Rwanda. UNMP: United Nations Mission of Observers in Prevlaka

¹⁷ Ibid

member state investment with money and lives, it is no surprise that the literature has focused on the efficacy of these operations.

Literature Review:

Most scholars that have studied and published articles on the effectiveness of UN peacekeeping operations have divided their subsets of operations into two periods: from 1948 through the cold war, and the post-cold war period.¹⁸ Operations are divided in this manner because of the change in global atmosphere pertaining to war during these periods. During the cold war most peacekeeping operations were carried out with regards to interstate rivals and were directly related to the primary world power focus on the containment or spread of diplomacy and communism by the world superpowers.¹⁹ After the cold war we have seen a spike in internal state conflicts and therefore an increase in UN intervention because of humanitarian issues.²⁰ The post-cold war era can be further divided into the period between the cold war and September 11 2001, and post September 11. These events have also caused a change in the global atmosphere. Literature written since 2010, on the efficacy of peacekeeping operations, however, is rather sparse. The most recent studies date back to 2008. Technology has also increased the focus on peacekeeping as international reporters are often on the front lines of atrocities often causing immediate and resounding outcries from society for action. The United Nations is seen by many as the most legitimate international organization to carry out these operations but is not the only internationally recognized body that has partaken in this

¹⁸ Doyle, Michael W., and Nicholas Sambanis. 2000. International peacebuilding: A theoretical and quantitative analysis. *American Political Science Review*: 779-801.

¹⁹ Ibid Pg. 786

²⁰ Ibid Pg. 786

venture. NATO and ECOWAS have both played vital roles in regards to their own PKO's, however their participation would be limited outside their areas of influence in the world.²¹

Similar to these scholars, I divide the literature into pre-2000 publications and post-2000 publications, with the primary focus on the works of post 2000 scholars. Most of these authors have conducted in-depth empirical studies on the question of the effectiveness of UN peacekeeping operations (PKO). I also focus on several authors who conducted specific case studies and show the vast difference between the focus on the entire body of work compared to the more specific case studies.

In 2003, Fortna conducted a study of several of the scholars from the 1980s and 1990s and found them split two to one on whether peacekeeping had any effect on the creation or maintenance of peace.²² She also studied some of the authors from early 2000 and again found them split on the effectiveness, with a third author sitting on the fence stating that in some conditions it is effective and in others it is not.²³ Many scholars from the 2000's also turn to quantitative data to expand upon existing work in order to solve this division. Fortna is included in this more recent work (2008) and has shown that overall the more recent studies with more robust methodological approaches have shown that UN intervention has had a positive effect on the creation of peace.²⁴

²¹ Fortna, Virginia Page, and Lise Morjé Howard. "Pitfalls and Prospects in the Peacekeeping Literature*." *Annu. Rev. Polit. Sci.* 11 (2008): 283 Pg. 291

²² Fortna, Virginia Page 2003. Inside and out: Peacekeeping and the duration of peace after civil and interstate wars. *International Studies Review* 5 (Winter2003): Pg. 100

²³ Ibid Pg. 100

²⁴ Fortna, Virginia Page, and Lise Morjé Howard. "Pitfalls and Prospects in the Peacekeeping Literature*." *Annu. Rev. Polit. Sci.* 11 (2008): 283 Pg. 286.

It is important to highlight a key element identified by both Fortna and Sambanis and Doyle in regards to their interpretation of peacekeeping operations. In 2000, Sambanis and Doyle title the varying types of interventions into four categories:²⁵

- Observer Missions—the integration of unarmed observers charged with ensuring the maintenance of an established agreement;
- Traditional Peacekeeping—which creates a demilitarized zone between warring factions;
- Multidimensional Peacekeeping—which primarily incorporates civilian entities that assist with governmental functions like police work, election sanctity or economic advice; and
- Peace Enforcement—which is the imposition of peace through force when necessary.²⁶

Fortna utilizes the same definitions to define peacekeeping in both of her studies.²⁷

However Gilligan and Sergenti do not incorporate any differentiation regarding the types of missions which, as I reiterate later, is a flaw within their work.

Sambanis and Doyle are some of the first authors to take a quantitative approach to measure effective peacekeeping, and they included the heavily active UN intervention period of the 1990s. In their study, they focus on civil wars from 1947 to 1997 that have included external interjection under the premise of peacekeeping.²⁸ Their empirical study hinged on the idea of a peace building triangle that incorporated three key elements of

²⁵ Doyle, Michael W., and Nicholas Sambanis. 2000. International peacebuilding: A theoretical and quantitative analysis. *American Political Science Review*: Pg. 781

²⁶ Ibid Pg.781

²⁷ Fortna 2003 Pg. 103 2004 Pg. 277

²⁸ Doyle, Michael W., and Nicholas Sambanis. 2000. International peacebuilding: A theoretical and quantitative analysis. *American Political Science Review*: 779-801.

Hostility (H), Local Capabilities (LC) and International Capabilities (IC).²⁹ They represent this via a triangle to represent the possibility of peace, therefore the greater the LC and IC in conjunction with lower H, the greater the chance for peace.³⁰ In order to obtain their data they then look towards quantitative statistics to represent the key elements that they have identified as having an effect on peace building. For Hostility (H) the statistics they gathered were on death and displacement, conflict type, number of faction's involved, ethnic division and the outcome of the conflict.³¹ For Local Capabilities (LC) they gathered data on the Gross Domestic Product (GDP), energy consumption and resource dependence.³² For International Capabilities (IC) they gathered data on the type of PKO and the amount of economic assistance.³³ They even took into consideration the cold war period by incorporating the decade in which the conflict occurred into their equation.³⁴

The next step in their progression was to determine the outcomes of the 124 (not all interjections were UN operations) conflicts that occurred during the designated period of study. They then defined the outcome of each conflict in regards to either strict or lenient criteria.³⁵ The lenient criteria were an end to violence and the strict criteria was an end to violence in conjunction with some increase in democratization.³⁶ The results of their study showed a mixture of external influences from their data having a direct effect on the possibility for peace. For example, they accepted their first hypothesis "The

²⁹ Ibid Pg. 782

³⁰ Ibid Pg. 782

³¹ Ibid Pg. 783

³² Ibid Pg. 783

³³ Ibid Pg. 783

³⁴ Ibid Pg. 783

³⁵ Ibid Pg. 781

³⁶ Ibid Pg. 783

probability of peace building (PB) success should be lowered in identity wars”³⁷ because the data showed a lower PB for both strict and lenient models.³⁸ The hypothesis that relates to this specific paper is their ninth which states “The probability of PB success is higher if UN peace operations are employed.”³⁹ Overall the data was split on this hypothesis due it showing correlation between UN PKO’s and the potential for peace under the strict criteria but not for the lenient criteria.⁴⁰ Overall there were several factors that directly affected the possibility of peace building and several that showed no correlation.

There were also several detractors from the findings of Sambanis and Doyle. For example, King and Zeng question Sambanis and Doyle’s methodology and argue that the necessity for extrapolation of information means that the information is more theory than empirical data.⁴¹ In response to this argument, Sambanis and Doyle defend their position by stating that King and Zeng used extreme examples to show their point and failed to take the findings as a whole.⁴²

In her study Fortna does not question the methodology but does take the next step in the progression of implementing additional quantitative data to show the effectiveness of PKO’s. By looking directly at the empirical data that has already been studied, Fortna highlights the fact that the data set used only utilizes data from conflicts in which PKO’s were implemented.⁴³ Fortna’s main argument is that you cannot look at half the equation

³⁷ Ibid Pg. 783

³⁸ Ibid Pg. 783

³⁹ Ibid Pg. 785

⁴⁰ Ibid Pg. 789

⁴¹ Sambanis, Nicholas, and Michael W. Doyle. 2007. No easy choices: Estimating the effects of United Nations peacekeeping (response to King and Zeng). *International Studies Quarterly* 51: 218

⁴² Ibid Pg. 218

⁴³ Fortna, Virginia Page. 2004. Does peacekeeping keep peace? International intervention and the duration of peace after civil war. *International Studies Quarterly* 48: 269-92.

but rather need to gather data from both PKO's that involved intervention and those that ran their own course without intervention in order to gauge an accurate assessment of effectiveness.⁴⁴ Fortna used the same time period, definition of civil war and even the same variables employed by Sambanis and Doyle but expanded her data set to include civil conflicts where PKO's did not interject.⁴⁵ By expanding the data set, Fortna was able to correct the criticism that by looking at only the conflicts that are resolved with PKO's you deny the possibility that these conflicts would have resolved without intervention.⁴⁶ Fortna's conclusions, using a "duration analysis" model, showed that the implementation of PKO's does have a significantly positive effect on not only the creation of peace but also of the duration of that peace once concord is reached.⁴⁷

The next progression of the usage of quantitative data was conducted by Michael Gilligan and Ernest Sergenti. This study highlighted flaws in both the methodology for Sambanis and Doyle and a flaw in Fortna's study by claiming that the nonrandom assignment of PKO's requires extrapolation and therefore the evidence cannot be empirical.⁴⁸ Basically, the UN is selective about its intervention and therefore the selection variables have to be accounted for. In order to correct this flaw they employ a comparison methodology in order to pair events with similar variables.⁴⁹ They also continue the separation into "a post conflict sample and an in-war sample."⁵⁰ The results disproved Fortna's hypothesis and showed that UN intervention had little effect on the

⁴⁴ Ibid Pg. 273

⁴⁵ Ibid Pg. 278-80

⁴⁶ Ibid Pg. 281

⁴⁷ Ibid Pg. 281

⁴⁸ Gilligan, Michael J., Ernest J. Sergenti, Steven Callander, Robert Urbatsch, Alessandra Casella, Thomas Palfrey, and Raymond Riezman. 2008. Do UN interventions cause peace? Using matching to improve causal inference. *Quarterly Journal of Political Science* 3 (2): Pg. 90

⁴⁹ Ibid Pg. 91

⁵⁰ Ibid Pg. 91

transition from war to peace in conflict areas.⁵¹ However the intervention of the UN did have an impact on the prolonging of peace after a conflict has been resolved.⁵² This research however appears to also be flawed. In order to match conflicts they used several variables ranging from Ethnic division to the terrain of the conflict.⁵³ What they do not appear to take into consideration are the types of missions employed by the UN as Fortna, Sambanis and Doyle do. As stated previously many UN missions were vastly different from each other. It would be difficult to compare the effectiveness on UN operations without acknowledging that Observer Missions (unarmed observers) play a different role than Peace Enforcement (armed soldiers using force or the threat of force).

The other methodology that has been employed to study the efficacy of UN PKO's is that of the case study. While these studies cannot be replicated and do not necessarily conduct comparison to the whole, they do take a close look at specific examples and therefore can account for intangibles specific to an event that are difficult to quantify because each mission is different. Scholar Shashi Tharoor looked specifically for these intangibles that directly affect the outcome of UN operations and found several. The primary intangible that was found, relates to the UN mandate under which many of the PKO's are conducted in conjunction with the consent of the warring factions.⁵⁴ This often means that the UN must rely on the warring factions in order to operate within their space, while at the same time they are attempting to hold this group accountable. The author used the PKO's of Somalia and Yugoslavia to support this flaw; in conjunction

⁵¹ Ibid Pg. 111

⁵² Ibid Pg. 114

⁵³ Ibid Pg. 101

⁵⁴ Tharoor, Shashi. 1995. Should UN peacekeeping go 'back to basics'? *Survival* 37 (4): Pg. 53

with a quote from former Secretary General Boutros-Ghali “If there is not political will among the protagonists to solve the problem the United Nations cannot impose peace.”⁵⁵

This highlights a proverbial inconsistency with peacekeeping in that the parties to peace must adhere to the mandates of the PKO force, while that force, using their arms for purely defensive purposes, often does not have the ability to actually enforce these mandates.⁵⁶ Another issue that was highlighted was the fact that the UN does not maintain any consistent force, therefore when a mandate is passed down from the Security Council, the DPKO and DFAS must gather troops and equipment from countries that have pledged these things but this does not mean that they will actually grant their use when the time comes.⁵⁷ Often it becomes a piecemeal approach of personnel and equipment that are not trained together and whose equipment is not compatible.⁵⁸ This lends to the issue of interoperability. Tharoor used the metaphor of a fire department receiving a call to respond to a fire and then trying to round up the equipment and personnel to respond.⁵⁹ In order to correct this deficiency Tharoor presents the option for the establishment of a standby force, donated by constituent nations, which answer directly to the Security Council.⁶⁰ A detractor to this option is Ramesh Thakur who conducted a case study of the Somalia operation.⁶¹ His main argument is that there needs to be a separation between PKO’s and military intervention and that the UN needs to be careful, as highlighted the case in Somalia, not to become an international security

⁵⁵ Ibid Pg. 57

⁵⁶ Ibid Pg. 59

⁵⁷ Ibid Pg. 63

⁵⁸ Ibid Pg. 63

⁵⁹ Ibid Pg. 63

⁶⁰ Ibid Pg. 62-63

⁶¹ Thakur, Ramesh. 1994. From peacekeeping to peace enforcement: The UN operation in Somalia. *Journal of Modern African Studies*: 387-410.

force.⁶² I would argue that the transition between the two is rather slim and may be crossed without intent and therefore it would be extremely difficult for the UN to differentiate between the two. As long as they deploy weapons for defensive purposes there is the possibility of engagement, therefore conflict with either party of said conflict is possible, even in a defensive posture. This literature does point to my main purpose of this study which is to determine if PMSC's could find utility within UN PKO's. This will be further discussed in the later chapters.

The literature has also offered other alternatives to solve some the UN's limitations. Mats Berdal and David Ucko highlight two variable flaws within the UN structure and offer a solution to overcome these flaws. The two primary limitations that they highlight are 'resource constraints' and 'clarity of political and strategic purposes.'⁶³ In regards to resource constraints the authors cite the UN's difficulty in establishing a cohesive responding force or, once established the inability of the UN or the member states to properly equip their forces for the tasked mission.⁶⁴ To support their second UN limitation, the authors point to the source of the establishment of UN PKO strategy, the UN Security Council, and the division within this entity that leads to a lack of clarity in the dissemination of mission direction.⁶⁵ This entity maintains the five permanent members and ten elected members, each country maintaining their own geopolitical strategies. In order to develop and disseminate direction, consensus is required which also requires debate and compromise often leading to inadequate objectives.⁶⁶ This structure

⁶² Ibid Pg. 388-390

⁶³ Berdal, Mats, and David H. Ucko. "The United Nations and the Use of Force: Between Promise and Peril." *Journal of Strategic Studies* 37, no. 5 (2014): 665-673.

⁶⁴ Ibid Pg. 669

⁶⁵ Ibid Pg. 671

⁶⁶ Ibid Pg. 671

makes it difficult for direction to be created and for the forces on the ground to respond to the ever changing environment of the PKO. The solution presented by these authors is for the establishment of a more robust use of force policy for all Peacekeeping Operations.⁶⁷ The potential flaw in this argument is that even with a clear policy it is the events on the ground that need to determine the use of force and the training of soldiers on when to use this force. With so many varying training backgrounds, the implementation of this policy could further delay UN response as it is being disseminated to the donated forces.

While each of these authors has produced invaluable work on the efficacy of peacekeeping, I believe that each is missing the forest through the trees. As we have seen by the genocides in Bosnia-Herzegovina, Rwanda and Darfur, and with the continued development of real time news information, the necessity for peacekeeping is not really in question. Therefore I would argue that any study of efficacy should not only include the empirical data and the specific failures highlighted by case studies but also look at the methodologies of successes in order to determine policies that can improve UN peacekeeping operations. For this reason I plan on looking at several case studies that cover both obvious failures and heralded successes to determine if the current establishment for peacekeeping is truly effective at maintaining or creating peace.

Case Study: Somalia

In order to look into the efficacy of UN peacekeeping operations one must look at both the successes and failures of these operations in order to determine which factors contributed to a particular outcome. While empirical data can help to formulate the big picture view, there are too many intangibles that can cause the results of PKO's to

⁶⁷ Ibid Pg. 672

change, therefore I do not think that an empirical study is an accurate reflection of success or failure. Regardless of this, in order to improve one must look at specific scenarios to determine what when right and what went wrong. A peacekeeping operation that was a glaring failure and has been memorialized via Hollywood in the movie “Blackhawk Down” was the United Nations Mission Somalia (UNOSOM I) and United Nations Mission Somalia II (UNOSOM II).

The 1991 ousting of dictatorial President Said Barre left a power vacuum within Somalia that plunged the country into a civil war.⁶⁸ In a country already separated by familial division and clan mentality, these differing factions faced off against each other in order to determine the next official leader of the country.⁶⁹ The main players of this conflict included the interim President Ali Mahdi Mohamed and the countries Congressional leader, General Mohamed Farad Aidid.⁷⁰ As civil strife waged, part of the country was plagued by a severe drought.⁷¹ This drought, in conjunction with the violence, led to a depleted agricultural sector, causing the malnourishment and starvation of close to half the population of Somalia, nearly 4.5 million people, with hundreds of thousands dead.⁷² This caused the inevitable migration of war stricken Somalis into their neighboring countries creating an international crisis prime for UN intervention under Chapter VII of their UN Charter.⁷³ The UN initiated their involvement via Security Council resolution 733 which implemented embargos on the sale of weapons to either

⁶⁸ Ibid Pg. 388

⁶⁹ Ibid Pg. 403

⁷⁰ United Nations, *Somalia-UNOSOM I-Background*, retrieved April 2, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unosom1backgr2.html>

⁷¹ Thakur, Ramesh. 1994. From peacekeeping to peace enforcement: The UN operation in Somalia. *Journal of Modern African Studies*: 388

⁷² United Nations, *Somalia-UNOSOM I-Background*, retrieved April 2, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unosom1backgr2.html>

⁷³ Ibid Pg. 1

parties of the civil conflict.⁷⁴ On March 3, 1992, a cease fire was agreed upon by the major parties to the conflict.⁷⁵ The cease fire was soon followed by UN involvement and more progressive continuing resolutions, each increasing this involvement:

Table 2: Major UN Security Council Resolutions Associated with Somalia

Resolution	Date	Synopsis
Security Council Resolution 733	1/23/92	Placed embargos on weapons sales to Somalia
Security Council Resolution 751	5/24/92	Initiated Peacekeeping monitors
Security Council Resolution 767	6/24/92	Calls for increased security forces
Security Council Resolution 775	7/28/92	Established 4 areas of operations in Somalia
Security Council Resolution 794	12/3/92	Establishes the use of Force
Security Council Resolution 814	3/26/93	Changed operations to nation building
Security Council Resolution 837	6/6/93	Reiterates the use of force authorization

Sources: United Nations, *Security Council Resolution 733*, 23 January, 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/733> ;United Nations, *Security Council Resolution 751*, 24 April 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/751>; United Nations, *Security Council Resolution 767*, 24 July 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/767>; United Nations, *Security Council Resolution 775*, 28 August 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/775> ; United Nations, *Security Council Resolution 794*, 3 December, 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/794>; United Nations, *Security Council Resolution 814*, 26 March 1993, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/814>; United Nations, *Security Council Resolution 837*, 6 June 1993, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/837>; United Nations, *Somalia-UNOSOM I-Background*, retrieved April 2, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unosom1backgr2.html>

The United Nations mandate calls for the enforcement of peace throughout the world. They therefore act upon interstate conflicts or civil conflicts that affect the international community. In Somalia, the exodus of 800,000 refugees from this war torn nation caused international instability catapulting this civil conflict into the purview of the United Nations. In order to remain a viable institution, the United Nations is required

⁷⁴ Ibid Pg. 2

⁷⁵ Thakur, Ramesh. 1994. From peacekeeping to peace enforcement: The UN operation in Somalia. *Journal of Modern African Studies*: 388

to view their involvement through the window of potential for creating peace. It is for this reason that the UN requires mutual agreement between the parties of the conflict prior to initiating peacekeeping operations, “no ‘Blue Helmets’ would be deployed unless all parties consented.”⁷⁶ In the situation in Somalia, both parties did sign the “Agreement on the implementation of a Ceasefire,”⁷⁷ which called for UN intervention through the deployment of observers. This opened the door for UN participation.

Security Council resolution 751 initiated armed “boots on the ground” by calling for the implementation of personnel who were tasked with monitoring this cease fire, in conjunction with a small contingent of personnel to make up a security force in order to protect the Non-Government Organizations (NGOs), and UN humanitarian aid coming into the country. This resolution was the impetus for UNOSOM I.⁷⁸ The primary mission of the United Nations as carried out by its members, in this case predominately the United States, was to provide humanitarian aid to the millions of starving Somali citizens.⁷⁹ This action was labeled Operation Restore Hope.⁸⁰ The warring factions however began to intercept these shipments and began using them as currency for their own purposes, like continuing the fight for power. This established the ultimatum for the United Nations, either cut their losses and leave or provide armed forces to keep the shipments of humanitarian aid secure.⁸¹ The above mentioned resolutions continued to

⁷⁶ Bolton, John R. 1994. Wrong turn in Somalia. *Foreign Aff.* 73 : 56.

⁷⁷ United Nations, *Somalia-UNOSOM I-Background*, retrieved April 2, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unosom1backgr2.html>

⁷⁸ Ibid Pg. 59

⁷⁹ Ibid Pg. 60

⁸⁰ Thakur, Ramesh. 1994. From peacekeeping to peace enforcement: The UN operation in Somalia. *Journal of Modern African Studies*: 395

⁸¹ Bolton, John R. 1994. Wrong turn in Somalia. *Foreign Aff.* 73 : 59

escalate the numbers of UN PKO forces, eventually reaching around 37,000 soldiers.⁸² As hostilities mounted, there were minor clashes between Peacekeeping forces and the local militias. The hostilities lead the UN to clearly delineate the “any means necessary” clause of Chapter VII of the UN Charter and essentially authorize the use of force.⁸³ Along with this change, from a security element to a military force, came the implementation of the Unified Task Force (UNITAF), which was an armed defensive security force.⁸⁴

UNISOM I, with UNITAF, remained a humanitarian mission of providing food to those in need. The United Nations soon conceded that this was insufficient to stabilize the country, which leads to the transition to UNISOM II. The primary shift of these two operations was from a humanitarian mission to a nation building mission; this included the stabilization of the political and economic realms and the maintenance of order via police activities.⁸⁵ This facilitated the implementation of a Quick Reaction Force (QRF) which consisted of elite special operations forces from the US military to include Army Rangers and Special Forces operators.⁸⁶ These teams deployed to respond to potential areas of conflict, in force, and provide security operations. This group also conducted offensive police style actions like the attempts to arrest General Aidid, which lead to the “Blackhawk Down” fiasco.

These offensive actions changed the scope of the mission from Peacekeeping to Peace Enforcement. Many scholars like to differentiate between these two actions, as

⁸² United Nations, *Somalia-UNOSOM I-Background*, retrieved April 2, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unosom1backgr2.html>

⁸³ Bolton, John R. 1994. Wrong turn in Somalia. *Foreign Aff.* 73 : 60

⁸⁴ Thakur, Ramesh. 1994. From peacekeeping to peace enforcement: The UN operation in Somalia. *Journal of Modern African Studies*: 395

⁸⁵ Ibid Pg. 395

⁸⁶ Clarke, Walter, and Jeffrey Herbst. 1996. Somalia and the future of humanitarian intervention. *Foreign Aff.* p.76.

Thakur states “Peacekeeping and peace enforcement are not synonymous.”⁸⁷ This is understandable since Peacekeeping operations are defined as purely defensive actions that, while utilizing the threat of force, don’t actually engage in any action. Peace Enforcement on the other hand does call for military actions that can be both offensive and defensive in scope. However these actions are not as different as many would claim as they can transition between each other very quickly and often not under the control of the peacekeeping force. UNISOM II was Peacekeeping until the actions of General Aidid changed the role of the PKO forces by attacking UN forces in order to control the humanitarian aid. In my opinion, the dynamic nature of these two labels requires that they be one and the same.

Case Study: Sierra Leone

In 1991, civil conflict was initiated in Sierra Leone when an armed insurgent group known as the Revolutionary United Front (RUF), fueled by years of corrupt patrimonial government and a disenfranchised youth base, initiated attacks on government entities. This group was also supported by the government of Liberia.⁸⁸ This brought government forces, with the assistance of an “Observer Group (ECOMOG) of the Economic Community of West African States (ECOWAS)”⁸⁹ into a protracted civil war. In total, it is estimated that approximately 75,000 people were killed in this conflict

⁸⁷ Thakur, Ramesh. 1994. From peacekeeping to peace enforcement: The UN operation in Somalia. *Journal of Modern African Studies*: 401

⁸⁸ Williams, Paul. "Fighting for freetown: British military intervention in Sierra Leone." *Contemporary Security Policy* 22, no. 3 (2001): 144

⁸⁹ United Nations, *Sierra Leone-UNOMSIL-Background*, retrieved April 25, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unomsil/UnomsilB.htm>

and at least a million people were displaced, with ten percent of the population fleeing the country and becoming refugees.⁹⁰

The international impact of the civil war brought the conflict into the purview of the United Nations mandate. Initially, United Nations intervention was relegated to negotiation assistance that assisted in the democratic elections in 1996, however the RUF refused to recognize the election results as legitimate and therefore the violence did not subside.⁹¹ In 1996, the UN was also able to successfully broker a peace deal known as the Adidjan Accord but this was short lived. In 1997, the accords broke down when the RUF joined with the government's military Armed Forces Revolutionary Council (AFRC) to initiate a coup.⁹² The Adidjan Accord, however, did satisfy some of the causes for the war, allowed for amnesty to the leadership, a contentious concession, and laid the groundwork for the disarmament of both parties.⁹³

Negotiations continued with the Conakry Accord that called for a six month ceasefire and allowed for the inclusion of both parties via representatives to a temporary government structure however the RUF refused to implement this agreement.⁹⁴ In 1998, under the shadow of heightened violence, the UN, with the assistance of the initial contact group, to include the British US contingents, were able to broker the Lome Peace Agreement which built upon the Abidjan Accord but focused more on the "distribution of

⁹⁰ Badmus, Isiaka Alani, and 'Dele Ogunmola. 2009. Towards rebuilding a failed state: The United Nations intervention in the post-civil war Sierra Leone. *Journal of Alternative Perspectives in the Social Sciences* 1: 727.

⁹¹ United Nations, *Sierra Leone-UNOMSIL-Background*, retrieved April 25, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unomsil/UnomsilB.htm>

⁹² Bah, Abu Bakarr. 2013. The contours of new humanitarianism: War and peacebuilding in Sierra Leone. *Africa Today* 60: 2-26.

⁹³ Ibid Pg. 14

⁹⁴ Ibid Pg. 12

power between the government and the RUF.”⁹⁵ This agreement was rife with controversy in that it granted amnesty to the perpetrators of humanitarian atrocities like rape and murder by RUF forces.⁹⁶ An important aspect of the Lome agreement was the incorporation of the United Nations Observer Mission in Sierra Leone (UNOMSIL) which placed UN representatives on the ground in 1998 and eventually turned into the United Nations Mission in Sierra Leone (UNAMSIL) in 1999, which culminated in close to 17, 500 armed UN troops in Sierra Leone, charged with enforcing the Lome agreement.⁹⁷

Similar to Somalia, the United Nations also gave these forces teeth by authorizing the use of force under their UN Chapter VII authority.⁹⁸ These forces were not an instantaneous success with several rather embarrassing events to include the capture of 500 UN security forces personnel due to a lack of training, equipment and clear UN mandates, however eventually their presence did help facilitate the ceasefires in both 2000 and 2001 in the Abuja I and II agreements.⁹⁹ The UN however was not the only entity involved in this mission, similarly to the intervention in Somalia; British forces worked in conjunction with UN forces and often stemmed the tide of potential failure.¹⁰⁰

The UN operations had several setbacks throughout its implementation with one of the main problems being the organizations inability to gather the necessary troops and equipment for the response. In actuality the UN mission was on the verge of failure when

⁹⁵ Ibid Pg. 15

⁹⁶ Malan, Mark, Phenyio Rakate, and Angela McIntyre. *Peacekeeping in Sierra Leone: UNAMSIL hits the home straight*. Vol. 68. Pretoria: Institute for Security Studies, 2002 Chapter 2

⁹⁷ United Nations, *Sierra Leone-UNOMSIL-Background*, retrieved April 25, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unomsil/UnomsilB.htm>

⁹⁸ Brattberg, Erik. 2012. Revisiting UN peacekeeping in Rwanda and Sierra Leone. *Peace Review* 24: 159

⁹⁹ Ibid Pg. 160

¹⁰⁰ Williams, Paul. "Fighting for freetown: British military intervention in Sierra Leone." *Contemporary Security Policy* 22, no. 3 (2001): 140-168.

RUF forces laid siege to the capital of Freetown had it not been for the intervention of British forces with Operation Polliser.¹⁰¹ The British did not however join the UN force but rather leaned on the protection of their citizens, the humanitarian crisis, the need to ensure the UN did not fail and the support of democracy to justify their intervention.¹⁰² It is actually hypothesized that the US and UK did not provide the UN with personnel due to the belief that their organization was insufficient and that they could be more effective outside of the UN structure.¹⁰³ The British did however work closely with the UN and had liaisons established that maintained open lines of communication for planning purposes.¹⁰⁴

Prior to the British intervention the UN had tried to establish a QRF similar to what was in Somalia but could not obtain the troops and supplies for such an entity from with the US or the UK.¹⁰⁵ This lack of western support was actually the motivation for the withdrawal of soldiers from both India and Jordan which significantly depleted the UNAMSIL force and precipitated the resignation of the UN commander Major General Jetley.¹⁰⁶ All of these force interoperability issues lead to the slow progress with the UN mission that caused continued delays in the democratization process.

The UN did however start to have success under a new command which was facilitated by mission clarification and a focus by the UN on increasing the UN forces

¹⁰¹ Ibid Pg. 154

¹⁰² Ibid Pg. 155

¹⁰³ Ibid Pg. 162

¹⁰⁴ Malan, Mark, Phenyio Rakate, and Angela McIntyre. *Peacekeeping in Sierra Leone: UNAMSIL hits the home straight*. Vol. 68. Pretoria: Institute for Security Studies, 2002 Chapter 3

¹⁰⁵ Malan, Mark, Phenyio Rakate, and Angela McIntyre. *Peacekeeping in Sierra Leone: UNAMSIL hits the home straight*. Vol. 68. Pretoria: Institute for Security Studies, 2002 Chapter 3

¹⁰⁶ Ibid Chapter 3

within Sierra Leone.¹⁰⁷ This eventually led to one of the largest UN intervention force in history at 17,500 soldiers from 31 countries, with also included additional personnel for a robust logistical support mechanism and a diverse response that included civilian police entities.¹⁰⁸

The current situation is one of relative stability, even with the removal of UN Peace Keeping forces, but what has remained is a UN presence through the United Nations Integrated Peace building Office in Sierra Leone (UNIPSIL).¹⁰⁹ The ceasefires have held as well under the fundamental principles of peace established by the Lome agreement, which has allowed for two democratically based elections since the end of the conflict.¹¹⁰ This democratization could not have occurred if the UN had not met several of their goals which lend credence to the contention that, overall UNAMSIL was a success. The UN mission was able to extend the influence of the Sierra Leon Government throughout the country, established a credible political process, and trained and provided support for both the Sierra Leone Army and Police.¹¹¹ Most importantly the UN was able to establish a successful Disarmament, Demobilization and Reintegration program that has successful reintegrated close to 46,000 RUF soldiers.¹¹²

Throughout this conflict the United Nations worked closely with the ECOWAS forces that were made up of predominantly Nigerian forces but also soldiers from Ghana, Guinea and Mali, neighboring nations that had a vested interest in the stabilization of

¹⁰⁷ Ibid Chapter 4

¹⁰⁸ Ibid Chapter 4

¹⁰⁹ United Nations, *Security Council Resolution 1829*, 4 August 2008, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1829>

¹¹⁰ Bah, Abu Bakarr. 2013. The contours of new humanitarianism: War and peacebuilding in Sierra Leone. *Africa Today* 60: 2-26.

¹¹¹ Malan, Mark, Phenyio Rakate, and Angela McIntyre. *Peacekeeping in Sierra Leone: UNAMSIL hits the home straight*. Vol. 68. Pretoria: Institute for Security Studies, 2002 Chapter 3

¹¹² Ibid Chapter 7

Sierra Leone because the refugees were becoming a burden to their nation.¹¹³ Eventually the UN took the side of these forces with the Sierra Leone government against the RUF and AFRC. The United Nations took a progressive stance from bipartisan negotiators to observers to eventually siding with one side. They chose the side focused on peace, remaining flexible to the conditions and responsive to the changing atmosphere of the conflict. This can be viewed through the progression of UN mandates:

Table 3: Major UN Security Council Resolutions Associated with Sierra Leone

Resolution	Date	Synopsis
Security Council Resolution 1132	10/8/97	Arms embargo against both parties of conflict
Security Council Resolution 1181	6/13/98	Implementation of UNOMSIL
Security Council Resolution 1270	10/22/99	Creation of UNAMSIL
Security Council Resolution 1346	3/30/01	Max UN forces 17, 500
Security Council Resolution 1492	6/18/03	Initial troop drawdown
Security Council Resolution 1829	7/4/08	Creation of UNIPSIL

Sources: United Nations, *Security Council Resolution 1132*, 8 October 1997, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1132>; United Nations, *Security Council Resolution 1181*, 13 July 1998, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1181>; United Nations, *Security Council Resolution 1270*, 22 October 1999, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1270>; United Nations, *Security Council Resolution 1346*, 30 March 2001, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1346>; United Nations, *Security Council Resolution 1492*, 18 July 2003, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1492>; United Nations, *Security Council Resolution 1829*, 4 August 2008, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1829>

However it was the eventual establishment of overwhelming force, 17500 soldiers, that has helped to create the level of necessary stability that gives the Sierra Leone government the chance at success.

Executive Outcomes:

An analysis of Sierra Leone, in the scope of this paper about the potential utility of PMSC's in UN PKO's, would be incomplete without taking a look at the role that the

¹¹³ Bah, Abu Bakarr. 2013. The contours of new humanitarianism: War and peacebuilding in sierra leone. *Africa Today* 60: Pg. 9

PMSC Executive Outcomes played in the Sierra Leone civil war. It is important to distinguish that this organization, based on the UN definition, is truly a mercenary organization that conducts offensive military operations for their client for monetary compensation. Therefore this type of utility is not what this paper intends to establish. Instead this paper intends to observe whether or not PMSC's could potentially replace the international Peace Keeping forces as a viable option for UN deployment in Peace Keeping operations or as a force multiplier and to fill in the potential shortcomings that were highlighted in the previous case studies. The differential between these may not be clear to most; however it is my contention that the most important aspect of diversion between these two types of entities (mercenary vs PMSC organizations) is the mandate for offensive versus defensive military style operations. This is similar to the vague distinction between UN peacekeeping and police operations that utilize force and unilateral actions taken by a country to remove a government entity. For example, US police style actions in arresting General Aidid for violations of International Humanitarian laws vs the US led coalition that invaded Iraq and toppled Saddam Hussein. Basically "EO offers to do what the United Nations blue helmets cannot and will not do: take sides, deploy overwhelming force and fire pre-emptively on its contractually designated enemy."¹¹⁴

Executive Outcomes (EO) was a South African Private Military Security Company (PMSC) that played a significant role in the history of Sierra Leone from 1995 to 1997, prior to UNAMSIL, which gives us a glimpse into the potential utility of these organizations in peacekeeping operations. The EO forces in Sierra Leone consisted of

¹¹⁴ Howe, Herbert M. "Private security forces and African stability: the case of Executive Outcomes." *The Journal of Modern African Studies* 36, no. 02 (1998): 307-331.

approximately 2000 former soldiers of the South African Defense Force (SADF) who had been tested in counter insurgency operations.¹¹⁵

During their contract period, EO provided everything from training services for the Sierra Leone Army, technical services, intelligence gathering and proactive military engagements against the RUF.¹¹⁶ There services included the following:

“an air attack wing, logistical supplies, a small medical corp, weapons and equipment procurement, technical support systems, strategic, aerial, tactical and counterintelligence sections, infiltration of enemy or rival groups, sophisticated surveillance capabilities, demolition, demining and associated engineering services recruitment of personnel and of course, financing”¹¹⁷

EO offered their own equipment that was far more sophisticated than what the Sierra Leone Army or the RUF could field to include MiG Fighters and MI Helicopters.¹¹⁸ Their roles within this contract were to protect the capital of Freetown, train the military and push the RUF out of several of the mining areas in Sierra Leone. In order to accomplish these objectives EO enlisted the assistance of the Kamajors, a Sierra Leone hunting organization, training up to 10,000 of these militia members to carry out their missions.¹¹⁹ Towards these goals EO was greatly effective and there was a short lived period of relative stability during their tenure. In 1996 their presence did allow for democratic elections that placed President Kabbah into power, however the overall legitimacy of

¹¹⁵ Pech, Khareen. "Executive Outcomes—A corporate conquest." *op. cit* (1999): 81-110.

¹¹⁶ Howe, Herbert M. "Private security forces and African stability: the case of Executive Outcomes." *The Journal of Modern African Studies* 36, no. 02 (1998):

¹¹⁷ Pech, Khareen. "Executive Outcomes—A corporate conquest." *op. cit* (1999): Pg. 90

¹¹⁸ *Ibid* Pg. 315

¹¹⁹ Douglas, Ian. "Fighting for diamonds—Private military companies in Sierra Leone." *Peace, profit or Plunder* (1999): 184-185.

these elections is questionable as the Sierra Leone government did not have control over a majority of the country therefore most citizens were unable to cast a vote.¹²⁰

While they maintained success during their presence, which points to at least a semblance of effectiveness, there remains a great deal of fodder for detractors of the use of PMSC's from this engagement. There is little question that the motivation behind EO's involvement in Sierra Leone was financially based. Not just from the payment for services but also for the granting of rights and contracts for mining that went to corporations that maintained close ties to EO like Branch Mining.¹²¹ It is even alleged that Branch may have financed EO during this operation as the Sierra Leone government did not have the finances to pay for their services.¹²² Also shortly after the end of their contract and subsequent departure from the country, the same Sierra Leone soldiers that they had trained were an integral part of the coup, in conjunction with the RUF, that ousted the democratically elected President.

In response to this organization South Africa drafted legislation, the South African Regulation of Foreign Military Assistance Bill, which regulated and required EO to obtain authorization for paramilitary activities outside of South Africa.¹²³ This ultimately was the end of EO as an organization, which disbanded in 1999, however they appear to have shifted their operations to a shared organization Sandline, a British

¹²⁰ Malan, Mark, Phenyio Rakate, and Angela McIntyre. *Peacekeeping in Sierra Leone: UNAMSIL hits the home straight*. Vol. 68. Pretoria: Institute for Security Studies, 2002 Chapter 2

¹²¹ Howe, Herbert M. "Private security forces and African stability: the case of Executive Outcomes." *The Journal of Modern African Studies* 36, no. 02 (1998):

¹²² Ibid Pg. 319

¹²³ Ibid Pg. 327

corporation that has subcontracted EO employees and maintains ties to many of the same companies that EO did.¹²⁴

Based on the success of EO in Sierra Leone and other areas of Africa (Angola) the potential utility of this type of organization was not lost on several international entities. EO did attempt to sell their services directly to the UN claiming to be able to “do a better job than the UN for 10 percent of the cost.”¹²⁵ They have also been looked by the Organization of African Unity (OAU) as a potential asset for peacekeeping operations within Africa.¹²⁶ In regards to their other services, they have also been contracted to NGO’s conducting humanitarian missions and other protection services. During their tenure EO did realize that they needed to present the aura of legitimacy in order to garner the support of the international community. They tried to accomplish this by claiming to only be contracted to internationally recognized governments while providing intelligence to the international community.¹²⁷ Despite these attempts at legitimacy they were never able to shake the stigma of being a mercenary organization within the eyes of the international community.

Analysis: Somalia

The UN mandate of pursuing peace was not the outcome of the Somalia operation. Their humanitarian efforts were thwarted by armed militias bent on securing their positions of power within the country. The actions of these parties required the UN to protect their representatives via force as necessary and as allowed by the UN Charter.

¹²⁴ Pech, Khareen. "Executive Outcomes—A corporate conquest." *op. cit* (1999): Pg. 96

¹²⁵ Ibid Pg. 97

¹²⁶ Ibid Pg. 103

¹²⁷ Ibid Pg. 98

The end result of this UN Peacekeeping Operation was not the creation of peace and stability, therefore it can be clearly articulated that this operation was not a success, especially as US forces vacated the country while a resolution was nowhere in sight.¹²⁸ So why did this operation fail? After looking at the historical perspective of the events it becomes clear that this operation was a cascading failure from the very beginning.

The first error that is often highlighted is the division of command. The operation was initiated by the United States led proxy coalition of United Nations forces under US command.¹²⁹ This initial operation was charged with securing the ports and humanitarian aid transports.¹³⁰ The United Nations was supposed to take command of the operation after only a short period of time however as things began to deteriorate, the United Nations did not assume control and the United States forces refused to be placed under UN command.¹³¹ This division between the command elements caused confusion during operations as neither entity was communicating effectively.

Not only were the command structures in country not communicating, there were also differences of opinion between the Secretary General and the President of the United States.¹³² At the time of this operation the office of the US President was in transition between incumbent President George Bush Sr. and President Elect Clinton.¹³³ Therefore there was also a transition in foreign policy perspectives between presidencies.¹³⁴ The initial force agreement between the United States and the United Nations was for the US

¹²⁸ Clarke, Walter, and Jeffrey Herbst. 1996. Somalia and the future of humanitarian intervention. *Foreign Aff.* p. 82

¹²⁹ Bolton, John R. 1994. Wrong turn in Somalia. *Foreign Aff.* 73: 56.

¹³⁰ Ibid Pg. 60

¹³¹ Ibid Pg. 61

¹³² Ibid Pg. 58

¹³³ Ibid Pg. 58

¹³⁴ Ibid Pg. 59

to provide an initial overwhelming force, designed to secure the ability to provide humanitarian aid, and then be transitioned to the UN for sustainment and monitoring.¹³⁵

As the President of the United States transitioned; so too did the UN's mission—from a humanitarian aid mission to a nation building operation.¹³⁶ What did not change was the mechanism used to implement the operation. In general, the military is not designed to build a nation, even Special Operations Forces. Instead, it is meant to act as a hammer not a scalpel. In other words, soldiers engage a situation with force, while nation building requires the more precise actions similar to a surgeon. Nation building requires more than soldiers, it requires police, economic and political experts, and critical infrastructure specialists. This is too difficult to accomplish with the current structure of our armed forces.

The United Nations bases their peacekeeping actions on the premise of maintaining neutrality.¹³⁷ Like a majority of their missions they waited until they had a signed agreement by both parties before becoming engaged in the conflict.¹³⁸ However, once they were on the ground, the actions of General Aidid, facilitated by some actions by US and UN forces, quickly blurred the lines of neutrality. After General Aidid's forces attacked and killed 24 Pakistani members of the UN coalition, an arrest order was created for Aidid.¹³⁹ This in essence placed US and UN forces against one of the major parties of the civil war, ending hopes for continued neutrality.

¹³⁵ Ibid Pg. 58

¹³⁶ Ibid Pg. 61

¹³⁷ Clarke, Walter, and Jeffrey Herbst. 1996. Somalia and the future of humanitarian intervention. *Foreign Aff.* 75 : 70.

¹³⁸ Thakur, Ramesh. 1994. From peacekeeping to peace enforcement: The UN operation in Somalia. *Journal of Modern African Studies*: 388

¹³⁹ Clarke, Walter, and Jeffrey Herbst. 1996. Somalia and the future of humanitarian intervention. *Foreign Affairs.* 75 : 79

In its effort to maintain neutrality, US and UN forces made a grievous miscalculation by not attempting to disarm the warring factions.¹⁴⁰ It was even clear in retrospect that many members of the two factions were actually anticipating disarmament upon signing the agreement.¹⁴¹ The failure of the peacekeepers to push this issue allowed for the continued degradation of the mission as General Aidid and his followers remained powerful enough to counter the US/UN forces attempting to quell their actions.

The mission to assist the people of Somalia was a noble endeavor within the scope and mandate of the United Nations. It was an international crisis that could have been helped with a clear and focused operational order with a clearly delineated command structure. This operation had neither of these fundamental aspects of United Nations Peacekeeping operations. These in conjunction with the PKO forces failure to disarm or maintain a neutral stance doomed the operation from the beginning. The lessons of UNOSOM I and UNOSOM II can be reviewed and carried forward in order to aid future operations.

Analysis: Sierra Leone

The opposite spectrum required for determining efficacy is to observe what actions lead to the success of an operation. Success of course is relative as Sierra Leone remains mired in the quagmire of a failed state by definition; however their movements on the failed state list from number six from the bottom to the top failed state, on the precipice of moving from the “alert category” to the “warning category”, shows marked

¹⁴⁰ Ibid Pg. 75

¹⁴¹ Ibid Pg. 75

improvement.¹⁴² In conjunction with this change in status, Sierra Leone has gone from a ten year protracted civil war to a stage of relative stability during which two successful elections have been held which even changed the balance of power between two political parties without a regression back to violence.¹⁴³ During the civil war most critical infrastructure was destroyed leaving the people of Sierra Leone without access to clean water, medical supplies or education. Post-civil war, the international community has implemented programs to start to correct this and has provided millions of dollars in aid to this country which has assisted in the development of community projects to support the people and provide for their basic needs.¹⁴⁴ In addition to this, numerous programs have sought to advance the state away from international dependence through the implementation of agricultural programs, economic programs, education programs and judicial oversight programs.¹⁴⁵ So while not able to stand on their own yet, Sierra Leone has showed vast improvements leading to the international community's views of this intervention being an overall success.

The Sierra Leone mission was a success for a variety of reasons. They were able to disarm a large contingent of the rebel forces and then re-integrate them back into normal society.¹⁴⁶ The United Nations was able to detain the initial RUF leader, Fadoy Sankoh, who had no interest in the peace process, which allowed for more receptive

¹⁴² Bah, Abu Bakarr. 2013. The contours of new humanitarianism: War and peacebuilding in Sierra Leone. *Africa Today* 60: 2-26.

¹⁴³ Ibid Pg. 19

¹⁴⁴ Ibid Pg. 19

¹⁴⁵ Ibid Pg. 20

¹⁴⁶ Badmus, Isiaka Alani, and 'Dele Ogunmola. 2009. Towards rebuilding a failed state: The United Nations intervention in the post-civil war Sierra Leone. *Journal of Alternative Perspectives in the Social Sciences* 1: 731.

leadership to take over control of the RUF.¹⁴⁷ The UN allowed for the initial distribution of power between the civilian government and the RUF and then assisted in the transition of the RUF to a political party, thereby affording them the potential for continued power thru the democratic process.¹⁴⁸ The member nations of the ECOWAS group maintained a vested interest in the success of the mission; therefore failure was not an option, even though the mission was bailed out by the British on multiple occasions. The mission itself was more than just a military operation; the United Nations also focused skilled elements of the response that were charged with peace building.¹⁴⁹ They did not rely on soldiers to carry out this fundamental aspect of the peacekeeping process. Most importantly when faced with adversity the UN responded with continued resilience that allowed for increased funds, increased troop strength and continued focus from the United Nations as observed by the progression of UN Security Council resolutions.

Comparative Analysis:

There are several similarities between the failure in Somalia and the success of Sierra Leone, both before intervention and after, which allows for a valid comparison to the key factors in the United Nations responses that may be extrapolated to determine why one campaign was successful while the other was not. Both nations are African coastal cities on relatively parallel lines of delimitation but opposite coasts of the African continent. The catalyst for both civil wars has been tied to corruption in the incumbent dictatorial government structures which lead to dis-satisfied factions within each nation

¹⁴⁷ Bah, Abu Bakarr. 2013. The contours of new humanitarianism: War and peacebuilding in Sierra Leone. *Africa Today* 60: 16

¹⁴⁸ Ibid Pg. 19

¹⁴⁹ Ibid Pg. 19

and eventually lead to the ousting of their presidents.¹⁵⁰ Both wars were allowed to continue for years prior to United Nations intervention leaving very little critical infrastructure remaining that had not been affected by the violence.

In regards to the response, both elements maintained divided leadership structures and both eventually developed a chapter VII mandate that authorized UN forces to use whatever means necessary to protect the civilian populations and themselves. There were even significant crescendo events that lead the intervening parties to take sides. In Somalia it was the deaths of the Pakistan UN soldiers and in Sierra Leone it was the detainment of 500 UN soldiers. During both interventions the UN eventually took sides against one party to the conflict, in Somalia it was against General Aidid and his forces, in Sierra Leone it was against Sankoh and the RUF.

Based on this review several of the key elements of the Somalia failure also existed as factors and yet Sierra Leone is determined to be a success. Therefore there must have been steps implemented during the Sierra Leone mission that mitigated the factors that lead to the failure of the Somalia mission. One could extrapolate from this that if key strategies had been altered during the Somalia campaign, the outcome may have been different. One of these events could have been the successful capture of General Aidid. If he had been replaced by more cooperative members, negotiation could have taken place, similar to what occurred in Sierra Leone. If the United States forces had been more vested in the outcome of the conflict like the ECOWAS forces were maybe they would have been able to persevere once faced with adversity. Instead of

¹⁵⁰ Brattberg, Erik. 2012. Revisiting UN peacekeeping in Rwanda and Sierra Leone. *Peace Review* 24 (2): 159

withdrawing the forces a surge could have turned the tide. In Somalia, if the UN and US forces could have worked under a more unified command similar or at least worked in better conjunction with each other, like the UN, British and the ECOWAS forces. If the UN forces had pushed for the disarmament of rebel forces in Somalia, as they had expected, would this have turned the tide? Most importantly however, based on my opinion, was the implementation of UN personnel that differentiated between the mission of security and the mission peace building. By allowing soldiers to conduct security, while allocating experts in their fields to the developing of the nation and critical infrastructure, the UN was able to promote a successful Peacekeeping and Nation Building endeavor.

UN Limitations and the Utility of PMSC's:

Within the aforementioned case studies there are several examples of UN limitations that may be remedied by the incorporation of PMSC's into the UN PKO response. In both case studies we observed a unity of command issue. For the Somalia operation the United States acted outside of the UN chain of command but what appears to have amplified the apparent command structure issues was a lack of communication. The US acted independently and did not communicate their missions or intent to their UN counterparts. In the Sierra Leone case study the British also did not fall within the UN command structure however they did embed British liaison officers within the UN structure in order to share information and strategy.¹⁵¹ Within both case studies we also

¹⁵¹ Malan, Mark, Phenyio Rakate, and Angela McIntyre. *Peacekeeping in Sierra Leone: UNAMSIL hits the home straight*. Vol. 68. Pretoria: Institute for Security Studies, 2002 Chapter 3

observe a multinational UN response force which leads to obvious interoperability issues regarding communications, training structures and equipment variations. The use of PMSC's would resolve the command structure issue as they answer directly to the client and therefore cannot work outside the scope of their contract with them. While the personnel hired by PMSC's may have varying backgrounds and ethnicities, like with Executive Outcomes, there is a vast pool of similarly trained former soldiers from which these companies could draw, it would be incumbent upon the United Nations contract to set the standards of minimum training for any PMSC utilized similar to the Worldwide Protective Services (WPS) standards implemented by the Department of State for their overseas contracts. The use of PMSC's would also solve the standardization of equipment issues and as seen by EO, often PMSC equipment is vastly superior to some of the member countries who currently make up the UN Peace keeping force. In the Sierra Leone response it was observed that the UN had difficulty obtaining sufficient support from member states. The support that did come was slow to activate and prepare delaying the UN response.¹⁵² Once on the ground several member states subsequently withdrew their support when events on the ground or back in their country changed. In Sierra Leone we observed the Nigerians depart when their newly elected government could no longer garner support for the mission.¹⁵³ We also observed both India and Jordan withdrawal due to a lack of western involvement.¹⁵⁴ In Somalia we of course see the United States withdrawal after the failed capture of General Aidid and the subsequent loss of American lives associated with this mission. The deployment of PMSCs would

¹⁵² Ibid Chapter 3

¹⁵³ Ibid Chapter 2

¹⁵⁴ Ibid Chapter 3

ensure a level of stability within the UN response as the contract would stipulate the conditions for departure not elements outside the control of the UN. With the EO example we observed the speed with which PMSC's could respond to a crisis, with this organization operating their private air support and transportation elements.

Within both the Somalia mission and the Sierra Leone mission we observe the need for flexibility to the changing environment on the ground. The United States implemented a Quick Reaction Force (QRF) that could respond to emergencies as they arose with overwhelming force. The UN also observed the need for this type of element within the Sierra Leone response and attempted to form a Rapid Reaction Force but could not garner the support of the US or UK for this element.¹⁵⁵ Had it not been for the surprising deployment of British soldiers as a de-facto QRF during the RUF attack on Freetown, the UN mission may have failed. The quick response ability of PMSC's could be utilized by the UN as a QRF or as a force multiplier if the mission begins to deteriorate. Throughout both UN missions there are potential utilities for PMSC's that could potentially aid future UN peacekeeping operations meaning that the discussion for the utilization of PMSC's should not be readily dismissed without a full review of their potential utility.

Conclusion:

In regards to UN Peace Keeping operations there appears to be a rather thin line between success and failure. It appears based, on the two case examples reviewed above, that a minor change in events or strategies can make the difference between utter failure

¹⁵⁵ Ibid Chapter 3

and total success. What can be derived from this study is that the United Nations must continue to learn from their past operations, what works and what does not, in order to prepare for future intervention. We can also see a several potential avenues of utility for PMSC's in future UN PKO responses. Both of the above studied operations were noble, necessary and fell within the mandate of the United Nations. Going forward the keys to any operation will be flexibility to the changing environment and dedicated support for success by the member nations.

III. UN Peace Building

"UN peacekeeping operations are now increasingly complex and multi-dimensional, going beyond monitoring a ceasefire to actually bringing failed States back to life, often after decades of conflict. The blue helmets and their civilian colleagues work together to organize elections, enact police and judicial reform, promote and protect human rights, conduct mine-clearance, advance gender equality, achieve the voluntary disarmament of former combatants, and support the return of refugees and displaced people to their homes." -- Kofi Annan

According to the United Nations, as of early 2015, there are sixteen ongoing peacekeeping operations in countries that are involved in a civil conflict or have only recently established a semblance of unstable peace that will require external assistance in order to stabilize their state.¹⁵⁶ Civil conflicts within a state will destroy critical infrastructure, weaken public services, and force the relocation of its citizens who either become refugees in a foreign state or Internally Displaced Persons (IDP). In short, these nation states are in turmoil. It is therefore imperative that any fledging peace accord be supported by the international community both financially and with Subject Matter Experts (SME) on the ground, in order to establish the long term stability that is the ultimate goal of peacekeeping operations.

When studying peacekeeping operations many scholars look predominantly at the effectiveness of the operation in and of itself. I don't think that this is a viable approach. It is my argument that both peacekeeping operations during civil conflict and peace building post conflict are synonymous with each other. This does not mean that the two processes will not sometimes be in conflict with each other; however a responsible

¹⁵⁶ United Nations. *United Nations Peacekeeping Operations*, 2015, retrieved February 28, 2015 from <http://www.un.org/en/peacekeeping/operations/current.shtml>

international community cannot intervene solely for the purpose of ending the conflict without also taking responsibility for the natural vacuum that occurs post conflict. For that reason in this chapter I will begin to look at the natural progression of peacekeeping intervention which is peace building.

Some authors have actually differentiated international intervention into three distinct processes, peacekeeping, peacebuilding and state/nation building. This was initially highlighted with United Nations Secretary General, Boutros Boutros-Ghali, in his 1992 report “An Agenda for Peace: preventive diplomacy, peacemaking and peacekeeping.”¹⁵⁷ In this report the Secretary General distinguishes between peacekeeping and peacebuilding.¹⁵⁸ Many authors have then built on this to include the idea of nation or state building as the continuation of these stages for peace. While distinct, these processes often overlap each other and can be in conflict with each other. A viable concession to facilitate peace may also lead to long term instability and erode the state building process. As a caveat to this however, many authors do use the terms nation building and peacebuilding interchangeably, therefore when reviewing the literature on the subject it was necessary to identify the processes that were being described and fit them into one of the three stages. For this paper I will also look at peacebuilding and nation building interchangeably as they are both the natural progression of peacekeeping as described in the previous chapter. However, I will initially differentiate between the two in order to highlight their subtle differences.

¹⁵⁷ Boutros-Ghali, Boutros. *An Agenda for Peace: Preventive Diplomacy, Peacemaking, and Peace-Keeping: Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992*. Vol. 1247. UN, 1992.

¹⁵⁸ Ibid pg. 822

As discussed in the previous chapter, peacekeeping operations are narrowly focused on maintaining the peace via negotiated peacekeeping agreements and observer missions that ensure adherence to these agreements. This often requires use of force procedures that are predominately police style operations, something most military forces are not specifically geared towards or trained for. This intervention also requires mutual concession by the warring factions; therefore some level of hostilities will still exist.

Peace building is the next step that occurs once peace has been established and is initiated by both parties agreeing to the democratic process. This will include the disarmament of the warring parties, which is vital to establishing long term peace since it limits the faction's ability to easily return to conflict. The members of the conflict parties then need to be identified and reintegrated back into civil society. One of the problems that occur with this is the concurrent need for justice. Often the same soldiers who are being reintegrated into society also carried out the humanitarian crisis that lead to international intervention. The power during the civil conflict rested in the warring parties, not in the civilian population who are the victims. It is therefore vital for this balance of power to be relocated with the civilians. The primary international process for this reallocation of power has been through democratic elections. This requires the inclusion of both factions and the ability of other party representatives to be given the opportunity to represent their constituents within the new governmental structure. One of the primary methods that the United Nations has assisted these fragile states with this is through their program that assists with the development of a Constitution that establishes the rights of the people.¹⁵⁹ Author Vijayashri Sripati argues that this involvement is

¹⁵⁹ Sripati, Vijayashri. "The United Nation's Role in Post-Conflict Constitution-Making Processes: TWAII Insights." *International Community Law Review* 10, no. 4 (2008): 411-420.

actually an extension of the desires of international corporations, citing the clauses in the recent Iraq and Afghanistan Constitutions that ensure open markets within these states.¹⁶⁰ While this may be true, the fragile status of any state recently removed from civil conflict may not have the ability or knowledge to develop a viable constitution and therefore United Nations assistance programs are vital to the this process. The key to ensuring the legitimacy of this process is the ultimate ratification of the Constitution by the newly elected government.

Nation or State building can be differentiated from peace building because it is the process of turning over the running of the state to those states governmental institutions that are developed during peacebuilding. State building therefore looks at the overarching pillars required for a government to move a country from a fragile state to a legitimate stable nation. These pillars are security, social and economic wellbeing, justice and reconciliation and governance and participation.¹⁶¹ Once a state's leadership has developed the institutions to carry out these tasks and is able to fulfill these pillars, the international community can begin to transition from welfare to partnership. Security is the first pillar because it is required prior to being able to focus on the establishment of any of the other pillars. As long as violence and conflict remain there can be no social or economic reform. It will also displace the focus of law enforcement and the justice system that will not be able to provide a secure environment or address crime. Finally as long as conflict ensues the government will not be viewed as legitimate and the citizens will not feel comfortable participating in the process.

¹⁶⁰ Ibid Pg. 419

¹⁶¹ Feil, Scott. "Building better foundations: Security in post conflict reconstruction." *Washington Quarterly* 25, no. 4 (2002): 97-109.

One of the primary catalysts for conflict is uncontrollable poverty and poor economic structures of governments usually fueled by leaders focused on their own self interests. In order to transition the state out of international aid it is vital for the government to establish laws that govern business, revive agriculture and the physical infrastructure required for investment. This includes roads, airports, and public utilities.¹⁶² One of the most important institutions will need to be the tax policy and collection department to bring in revenue that can be utilized to carry out these functions. The government will need to ensure that policies are in place that allow for a free market economy and lead to development, lowering unemployment and poverty within the state.¹⁶³ Prior to achieving this economic ability it is vital for the international community to provide funds that can jump start these basic functions. However it is just as vital to ensure that the unstable government institutions are involved in this process so that the nation does not begin to rely solely on external funding without establishing the infrastructure necessary to carry these tasks out themselves.

The law enforcement and justice system ensures the safety and security of the citizens of a nation. Often conflict states justice systems are maintained by the military and accountable only to the government. El Salvador's pre intervention system is an example of this.¹⁶⁴ During the peacebuilding process it is vital to create the infrastructure to train and support a law enforcement community that is accountable to the people of that state. This will require external support, training, equipment, facilities and funds to

¹⁶² Kumar, Krishna. *Rebuilding societies after civil war: critical roles for international assistance*. Lynne Rienner Publishers Inc., 1997.

¹⁶³ Ibid Pg. 30-31

¹⁶⁴ Ibid Pg. 107-128

establish. The legal system itself may need to be revamped in order to push out any imbedded corruption.

Lastly the government structures that were eroded by the conflict need to be re-established or created from the beginning. This includes the electoral system to ensure their legitimacy and accountability, and the public service infrastructure that can provide the necessary functions to aid the civilian population. Border patrol programs, military defense, and enforcement divisions that maintain order all have to be created and trained. Even the basic structure of the government that allows for the checks and balances of each other but are able to pass laws and programs needs to be established.

There are several international organizations that play important roles within the peacebuilding process. Most of these organizations maintain western style philosophy's of liberalism and democratic viability as their fundamental ethos. Some of these organizations are the United Nations, which maintains several divisions for peacebuilding like United Nations Development Program (UNDP), the Department of Peacekeeping Operations (DPKO), the United Nations Children's Fund (UNICEF) and the United Nations High Commissioner for Refugees (UNHCR).¹⁶⁵ There are also other entities like the World Bank, the International Monetary Fund (IMF) and other subsidiaries like the North American Treaty Organization (NATO). While these organizations do maintain similar principles they are not within the same hierarchy and can be counterproductive to each other.¹⁶⁶

One of the obvious goals of peace building is to reach a level of success that justifies the expense by the international community. Of course there are also

¹⁶⁵ United Nations Department of Public Information. *Basic facts about the United Nations*. United Nations Publications, 2000. Pg. 77

¹⁶⁶ Paris, Roland. *At war's end: building peace after civil conflict*. Cambridge University Press, 2004 Pg. 87

humanitarian incentives for the International community to act as well; however, as we have seen in Rwanda, the international community often acts either too late or too little to actually thwart the humanitarian atrocities. This motivation is more closely linked to the expense of peacekeeping operations, not peace building. Taken from a realist perspective, the potential for success is an attributing factor to the motivation for donor countries to act. This is in conjunction with more self-interested purposes like their own domestic security, for example international terrorism, or access to natural resources. There are several measures of success but one in particular encompasses and simplifies the overall measure into three parts, maximalist, minimalist and moderate.¹⁶⁷ The maximalist approach seeks to solve the causes of the conflict.¹⁶⁸ This can be extremely difficult especially when the causes are embedded in years of conflict or ethnicity. Other issues, like poverty, can be addressed through donations and programs that put the conflict participants to work. The minimalist approach would be the implementation of the least number of programs in order to simply maintain the peace.¹⁶⁹ This is often done during peacekeeping operations when compromise and negotiation are keys to success and the potential for a lasting peace is moderate at best. The moderate barometer is usually the most likely as donor countries often fail to commit the necessary funds to address the root causes of conflict. The moderate measure goes beyond just maintaining the peace to address the sustainability of the nation itself.¹⁷⁰ It is within this measure that we find peace building.

¹⁶⁷ Call, Charles T., and Elizabeth M. Cousens. "Ending wars and building peace: International responses to War-Torn Societies1." *International studies perspectives* 9, no. 1 (2008): 1-21.

¹⁶⁸ Ibid Pg. 6

¹⁶⁹ Ibid Pg. 7

¹⁷⁰ Ibid Pg. 8

Literature Review:

Author Alina Menocal takes a close look at the relationship between peacebuilding and state building and argues that their relationship can be both supportive and contradictory at the same time. She acknowledges that both require the intervention of international players like the United Nations, powerful states like the United States or Europe and International financial entities like the World Bank. She also argues that the key component of this intervention is the creation of the link between the established government and the rest of society; therefore there must be both a top down and bottom up approach.¹⁷¹ This is the fundamental goal of nation building, the establishment of infrastructure, security and justice, government entities, humanitarian rights, social programs etc., which permanently links these two entities. This linkage will establish the legitimacy of the government leading to long term stability. The international players therefore must ensure that the state incorporates the members of society who were oppressed or did not play a role in the previous state, which also fostered the conflict. In peacebuilding, the establishment of a Constitution and democratic elections, are all vital in developing this. Therefore, peacebuilding and nation building are synonymous with each other.

Menocal also highlights the potential tensions between these two with four main points. First is that the development of the state may not actually lead to sustained peace.¹⁷² The development of peace requires concessions between the conflict parties. Outside interveners may also have ulterior motives for their involvement. Their own domestic security or the securities of natural resources are examples of this. This means

¹⁷¹ Rocha Menocal, Alina. "State Building for Peace: a new paradigm for international engagement in post-conflict fragile states?." *Third World Quarterly* 32, no. 10 (2011): 1715-1736.

¹⁷² Ibid Pg. 1727

that there are often winners and losers in the process which is usually the catalyst for continued conflict. Second the requirements for peacebuilding may conflict with the legitimacy needed for nation building. The inclusion of all entities, to include the parties to the conflict, in the newly formed government is a key to establishing peace, however, the inclusion of a particular party, especially one that perpetrated humanitarian atrocities, would weaken the legitimacy of this government to the citizens that they represent.¹⁷³

Third the involvement of external intervention for peace can weaken the establishment of state institutions as they are not resilient enough to facilitate the required tasks. Therefore international organizations may bypass these entities in the establishment of state infrastructure. This can lead to the state becoming reliant on the international organization or may weaken their role within society as the people associate their assistance with the international community over their own state. Lastly the international community may focus too much on the establishment of government organizations while excluding local entities that wield vast authority and influence. For example, the establishment of a central government in Afghanistan has alienated some of the local tribal leaders which can hurt the legitimacy of the central government. I think that Menocal does make valid points in regards to the potential conflicts between peace building and state building; she also does not offer an alternative. Going back to my original argument, the establishment of peace is futile if the international community does not ensure the peace for the long term. This long term peace requires the state to be able to stand on its own otherwise the fragile state will remain fragile while becoming a charity case for the international community. Therefore despite the obvious contradictions, the natural progression from peace building to state building remains a

¹⁷³ Ibid Pg. 1728

necessary step. Where Menocal's research is vital is that it establishes the potential contradictions which inform policy makers.

Author Roland Paris studies the foundations of current peacebuilding operations and basically relates peacebuilding/ nation building to social engineering in that international institutions are attempting to influence fragile states by implementing liberalist ideals of democracy and free markets.¹⁷⁴ The problem with this, according to Paris, is that both democracy and free market capitalism require and promote conflict within their basic principles. Fragile states do not maintain the institutional infrastructure to control this conflict or dissuade conflicting parties from resorting to violence.¹⁷⁵ He argues that for some fragile states it may be better in the short term to maintain authoritarian governments, have warring factions share power or promote partition in order create stability.¹⁷⁶ To support his claim he highlights how only one of the post-cold war peace building missions appears to have created stable peace.¹⁷⁷ He however does not abandon the fundamental principles of liberal internationalism but argues that it is the implementation of these principles that is flawed. Paris therefore promotes a new version of liberal internationalism that he has coin strategic liberalization.¹⁷⁸ Within this strategy, Paris advocates for a slower approach to elections and democratic implementation with the exclusion of extremists and the slower implementations of freedoms.¹⁷⁹ In theory I agree with most of what Roland Paris argues and that this would be more effective strategy for building peace; however where his argument is flawed is that it requires the

¹⁷⁴ Paris, Roland. *At war's end: building peace after civil conflict*. Cambridge University Press, 2004.

¹⁷⁵ Ibid Pg. 59

¹⁷⁶ Ibid Pg. 59

¹⁷⁷ Ibid Pg. 64

¹⁷⁸ Ibid Pg. 81

¹⁷⁹ Ibid Pg. 83

sustained intervention of the international community to include donor states, without producing immediate results. It is sustained peacebuilding with limited nation building. You cannot transition to building governmental institutions that would be capable of taking over the running of the nation without legitimate elections and the involvement of the citizens of the state.

Eva Bertam argues that the hurdles facing the United Nations are derived from their own structures and mandates, in conjunction with inherent difficulties that are beyond their control. She also differentiates between peacekeeping, defines as the process of enforcement via monitoring, and peacebuilding which “seeks to remake the state’s political institutions, security forces and economic arrangements.”¹⁸⁰ Her argument is relatively simple, first that the United Nations original mandate has always been that they do not interfere with state sovereignty and that they maintain neutral.¹⁸¹ Nation building requires influence of a state’s structure and therefore some manipulation of, winners vs losers, in a civil conflict, compromise and influence are all required. All of these things dilute state sovereignty. In the past they have justified their interference via the securing of consent from the opposing parties or via the argument that the existence of conflict shows that a functioning government already does not exist.¹⁸² The basic argument presented is that, since the original United Nations mandate is inconsistent with the current United Nations mission of peacebuilding, something will have to change. Either the mission has to revert to place sovereignty and neutrality at a higher precedence than peacebuilding or the United Nations mandate will have to allow for more flexibility in

¹⁸⁰ Bertram, Eva. "Reinventing Governments the Promise and Perils of United Nations Peace Building." *Journal of Conflict Resolution* 39, no. 3 (1995): 389

¹⁸¹ Ibid Pg. 391

¹⁸² Ibid Pg. 391

regards to its stance on these cornerstones. To further bolster her point, Bertram highlights the inherent tensions between the uses of military actors to maintain peace versus the requirement for a more political aspect to build peace.¹⁸³ Taking this one step further the tensions of negotiating between warring parties requires compromise and balance to facilitate the atmosphere for peace, while at the same time these compromises could allow for a continued role of a party that may have also been the cause of humanitarian atrocities. Allowing these parties to continue maintaining a role in the new government could very well eliminate any long term legitimacy in the eyes of those that were victims of this group. Without legitimacy peace will remain fragile.

The other side of Bertram's argument is that mission success is often outside of the control of the United Nations. The UN must rely on both its members and the institutions of the failed state that they are attempting to rebuild. The UN is not a standalone entity but rather a conglomeration of nations, each with their own interest's abilities and motivations. Often the more powerful members own interests may conflict with the interests of the UN, therefore they can often find themselves with a serious lack of support.¹⁸⁴ This fosters itself usually through a lack of troops or funding that is vital to any potential mission success. Even worse the member states may initially promise support only to have a backlash from their constituents and withdrawal support latter. Even when the mission is in the obvious best interest of most parties there are inherent difficulties with bringing together the structures of different military entities. Command and control need to be specifically delineated and yet there can still be issues of compatibility with equipment, training or even the obvious language barriers. The other

¹⁸³ Ibid Pg. 396

¹⁸⁴ Ibid Pg. 401

primary issue for the UN is that they are dealing with failed states. These states often no longer have the required institutions to maintain their country.¹⁸⁵ Without their ability to provide the basic fundamental necessities of life for their citizens the new government will quickly suffer a lack of legitimacy. Therefore the UN must balance that fine line of creating the required institutions in conjunction with the current structures, often run by inexperienced people, which will take time, or utilize their own personnel to create efficient institutions but also alienate the people who they will need to turn these institutions over to in order to leave. Both of these issues are outside the control of the United Nations and therefore can be serious stumbling blocks to their success.

There is very little current literature on the use of Private Military Security Companies (PMSC's) for nation/peace building. This is predominantly due to the stigma of PMSC's as mercenary entities; however there have been great steps taken by this community to reestablish their legitimacy through self-regulation.¹⁸⁶ In regards to their potential, some academics have delved into their possible role in future peace building enterprises. They site a growing threat in conjunction with dwindling military budgets and the fact that the United Nations is often deemed impotent in their response due to their inability to persuade member states to supply the necessary forces for peacebuilding operations. Allen Gerson touts the importance of incorporating the private sector into the early stages of the peace building process and makes the suggestion that the incorporation

¹⁸⁵ Ibid Pg. 412

¹⁸⁶ Briand, Stephane. *Private Military and Security Companies-Counterinsurgency and Nation Building Strategy*. Marine Corps Command and Staff College, Quantico VA, 2013.

of private security companies at this early stage could assist with creating the stable environment necessary to foster their engagement.¹⁸⁷

The United Nations has also initiated the process to address their use of PMSC. In 2012 the United Nations Department of Safety and Security published their guidelines for how any UN entity should select and incorporate PMSC's.¹⁸⁸ Within these guidelines they identify three primary conditions and purposes under which UN entities may deploy PMSC's. First is for the protection of UN staff, second is only when warranted and assessed via a threat assessment and third is only when the host nation is unable to provide adequate security for the conditions.¹⁸⁹ This guideline also specifies the type of functions that PMSC's may engage in, protection of "United Nations personnel, premises and property."¹⁹⁰ This can be accomplished via access control and patrol of UN locations. Lastly they identify the vetting requirements for PMSC's, which are first that they need to be signatories of the International Code of Conduct, second that they have been established for a minimum of five years, third that they maintain all required licenses for both their home and host country and lastly that they are registered as a legitimate vendor with the UN.¹⁹¹ The fact that the United Nations has established these guidelines shows that they recognize the validity of their use, no matter how restrictive these guidelines are.

¹⁸⁷ Gerson, Allan. "Peace building: The private sector's role." *American Journal of International Law* (2001): Pg. 109

¹⁸⁸ United Nations Department of Safety and Security. *Guidelines on the use of Armed Security Services from Private Security Companies*, 8 November, 2012. United Nations Security Management System.

¹⁸⁹ Ibid Pg. 1

¹⁹⁰ Ibid Pg. 2

¹⁹¹ Ibid Pg. 6

Case Study: Rwanda

Many people are familiar with the genocide in Rwanda through the Hollywood movie *Hotel Rwanda*. This movie brought the tragedy to the forefront of society's viewpoint but could not cover all of the history of the conflict or the involvement of the United Nations in this tragedy. Rwanda had been in various states of conflict since the 1950's primarily based on the two primary ethnicities within the country, the Tutsi's and the Hutu's and their ethnic, economic and social positions. Many people view this nation as another victim to western colonialism as this was initially a Belgium colony that propagated the minority Tutsi monarchy into power but then turned over power to the vastly larger demographically superior Hutu group after their 1959 revolution.¹⁹² This of course led to years of repression and conflict between these groups that included mass murder on behalf of the Rwandan government.¹⁹³ In the 1990's the Rwandan government, faced with a growing population and limited agricultural land, ceased to allow mostly Tutsi refugees from re-entering the country.¹⁹⁴ This group became a significant component of the Rwandan Patriotic Front (RPF) in Uganda which was the opposition force to the Rwandan government during their civil conflict when they attacked Rwanda in October 1990.¹⁹⁵ A delicate peace was brokered via the Arusha accords, but all this came to a head when on April 6, 1994 President Habyarimana of Rwanda died in a plane crash, that had little explanation.¹⁹⁶ This death was the spark that initiated the mass killings of both Tutsi minority and any moderate Hutu elements that

¹⁹² Newbury, Catharine. "Background to genocide: Rwanda." *Issue: A journal of opinion* (1995): Pg. 12

¹⁹³ Ibid Pg. 14

¹⁹⁴ Ibid Pg. 13

¹⁹⁵ Ibid Pg. 14

¹⁹⁶ Barnett, Michael N. "The UN Security Council, indifference, and genocide in Rwanda." *Cultural Anthropology* 12, no. 4 (1997): 551-578.

stood against the government. This was carried out by government forces, the military, the police and even regular citizens, fueled by government lead propaganda and years of ingrained ethnic tensions. In the end estimates between five hundred thousand and one million Tutsi's were murdered in some of the most unimaginable ways.¹⁹⁷

What few people fully understand is that the tragedy depicted in the movie occurred under the presence of a UN peacekeeping mission that originally started as U.N. Observer Mission Uganda-Rwanda (UNOMUR) but, during the time period depicted, it had been transitioned into U.N. Assistance Mission for Rwanda (UNAMIR).¹⁹⁸ The UN was present in order to ensure compliance with the Arusha Accords, which established a ceasefire and the monitoring of this peace by UN peacekeeping forces. This agreement also required a power share arrangement between the warring parties, which included minimum percentages for RPF positions.¹⁹⁹ There was also a requirement to reintegrate RPF members into the Rwandan military, which was to be accomplished prior to elections and an agreement for the reintegration of refugees into Rwandan society. All of these requirements move the UN peacekeeping element into the realm of a peacebuilding operation.

As a peacekeeping and a peacebuilding operation UNAMIR can be seen as a failure. The deaths of upwards of one million people are a testament to that. So why did this intervention fail and even more relative, why did the United Nations fail to accomplish its goal of transitioning Rwanda into a stable government?

¹⁹⁷ Ibid Pg. 561

¹⁹⁸ Dallaire, R. A., and Bruce Poulin. *UNAMIR: Mission to Rwanda*. National Defense University, Washington DC Center for Counter-proliferation Research 1995

¹⁹⁹ Newbury, Catharine. "Background to genocide: Rwanda." *Issue: A journal of opinion* (1995): Pg. 15

The UN did attempt to lay the groundwork for peacebuilding through the Arusha accords. The key elements of this agreement do address some of the deficiencies that were noted in the literature but also highlight some deficiencies within the UN oversight of this peace agreement. Within the literature it is Paris who makes the assertion that democracy itself breeds tension. Prior to the signing of the Arusha accords the Government of Rwanda (GoR) was trying to become politically liberated via the development of a constitution and the inclusion of varying political parties.²⁰⁰ These parties however were more of a façade than a true representation of the desires of the citizens which only facilitated distrust and apathy between them and those that they were supposed to represent. The Arusha accords themselves highlight the idea that concessions necessary for peace may actually become a barrier to long term peace. Within the negotiations the RPF have a lot to gain, were in a position of negotiating superiority due to their military advantage and the affect they were having on the Rwandan economy.²⁰¹ On the other side the GoR was in a weak position as they needed the conflict to end in order to re-establish the Rwandan economy.²⁰² Based on these two bargaining positions the GoR was forced to make a great deal of concession while the RPF was able to wait and gain a lot.²⁰³ The primary concessions were on the role of the RPF in the interim government and in the makeup of the Rwandan military.²⁰⁴ This lead many within the GoR, especially the radical elements, angry or under the assumption that they gave up too much, therefore many started to work against the agreement.²⁰⁵ In the end this may have

²⁰⁰ Newbury, Catharine. "Background to genocide: Rwanda." *Issue: A journal of opinion* (1995): 12-17.

²⁰¹ Scorgie, Lindsay. "Rwanda's Arusha Accords: A Missed Opportunity." *Undercurrent* 1, no. 1 (2004): 67-76.

²⁰² Ibid Pg. 70

²⁰³ Newbury, Catharine. "Background to genocide: Rwanda." *Issue: A journal of opinion* (1995): Pg. 15

²⁰⁴ Ibid Pg. 15

²⁰⁵ Scorgie, Lindsay. "Rwanda's Arusha Accords: A Missed Opportunity." *Undercurrent* 1, no. 1 (2004): 71

still been averted had the promised UN peacekeeping force been able to respond within a short period and thereby enforce the mandates of the accord. However with the slow UN response the GoR continued to delay the implementation of the Ashura accord further deteriorating the trust between the two entities while allowing radical elements to garner further support.

The catalysts for this genocide were of course outside of the control of the United Nations. Deep rooted historical ethnic division in conjunction with poor economic conditions, and the potential reintegration of refugees into a country that was starved for farmable land, which was negatively affecting the poor, all helped spur the hardliners within the Rwandan government to plan and execute the genocide that occurred. However once it began to occur and the humanitarian crisis became evident to the international community why were actions not taken by UN forces, with an established mandate to enforce the peace?

For answers one has to look at the UN response to the genocide. As of April 6, 1994, the United Nations had only 5,000 peacekeeping troops within the country.²⁰⁶ Of these troops many were centrally located in relatively few main areas and were lightly armed. Therefore the overall impact that these soldiers could have against 30,000 plus RPF and 30,000 plus Rwandan soldiers was minimal at best.²⁰⁷ In response to the escalating violence, which included the murder of ten Danish peacekeeping soldiers, the United Nations initial reaction was to withdraw their forces.²⁰⁸ As the death tolls

²⁰⁶ Barnett, Michael N. "The UN Security Council, indifference, and genocide in Rwanda." *Cultural Anthropology* 12, no. 4 (1997): 558

²⁰⁷ Dallaire, R. A., and Bruce Poulin. *UNAMIR: Mission to Rwanda*. National Defense University, Washington DC Center for Counter-proliferation Research 1995

²⁰⁸ *Ibid* Pg. 16

escalated, only then did the UN decide to send in an intervening force but this was not an easy task at all. Initially no countries offered the forces or the funds necessary to have an impact, therefore there was no means by which the UN could react.²⁰⁹ Countries that did have soldiers on the ground complained of an inability for them to ensure their safety while feeling a serious disconnect between the UN leadership and their soldiers wellbeing.²¹⁰ Eventually the UN sent in French troops but this was only a last chance option since the French had a long history of association with the Hutu government and there were fears that they would only support them against the Tutsi's fueling the genocide.²¹¹ The UN response to the genocide in Rwanda highlights the impotence of the organization. They are unable to act without the support and therefore self-interest of their member states, which leaves them no flexibility to the ever changing situations on the ground. Michael Barnett states it best within his chapter on the Bureaucratization of Indifference when he states "no matter how grieved member states were by the genocide in Rwanda, they were unwilling to commit money and manpower to any operation because it remains outside their interests."²¹²

Case Study: Namibia

Few people have ever heard of the small country of Namibia on the west coast of Africa, probably because it did not even exist as a country before March 21, 1990.²¹³ During the post colonization period, South West Africa (Namibia) was partitioned by

²⁰⁹ Barnett, Michael N. "The UN Security Council, indifference, and genocide in Rwanda." *Cultural Anthropology* 12, no. 4 (1997):

²¹⁰ Ibid Pg. 559

²¹¹ Ibid Pg. 558-561

²¹² Ibid Pg. 562

²¹³ Dale, Richard. "The UN and African Decolonization: UNTAG in Namibia." In *Transafrica Forum*, vol. 8, no. 3, pp. 31-48. 1991.

South Africa as its fifth province, and encapsulated the country within its apartheid regime.²¹⁴ This annexation was never ratified through the United Nations and therefore was deemed by the international community as illegitimate. The main reason that I choose to look at the United Nations involvement in regards to State building in Namibia is that prior to UN intervention there was no State at all. Therefore their involvement included a total incorporation of state building principles.

The parties to the civil conflict, that ended with the United Nations Transitional Assistance Group (UNTAG) intervention, were the South West Africa People's Organization (SWAPO) and the military actors of South Africa, the South West Africa Police Force, (SWAPOL) the South African Defense Forces (SADF) and the South West Africa Territorial Force (SWATF).²¹⁵ SWAPO was recognized by the international community and the Organization of African Unity (AOU) as the legitimate representative to the Namibian people; however they did not have any control over the country.²¹⁶ They therefore established their structure in secret to include the People's Liberation Army of Namibia (PLAN).²¹⁷

One of the key features regarding the UN intervention in Namibia and South Africa was that it did not act until conditions were right. Initially UN intervention took shape in 1978 with the creation of a small working group, which consisted of France, the United Kingdom, the United States, Canada and Germany (Western Contact Group) and the passage of several resolutions.²¹⁸ This working group laid the foundation for the eventual agreement that didn't occur until ten years later in 1988. Part of the delay was

²¹⁴ Ibid Pg. 1

²¹⁵ Ibid Pg. 2

²¹⁶ Ibid Pg. 3

²¹⁷ Ibid Pg. 3

²¹⁸ Ibid Pg. 4

the requirement of getting all parties involved into agreement. Not only was this a struggle between SWAPO and the South African Military, but also Angola, who was embedded in their own civil war, and where SWAPO forces were staged, and Cuba who was supporting Angola's opposition, as a proxy for the Soviet Union, against the Angolan government supported by both South Africa and the United States.²¹⁹ Therefore in order to obtain an agreement, all parties had to include an abatement of conflict and withdrawal from action in Angola. Once these agreements were in place, South Africa had reached a point where they were willing to acquiesce control over Namibian Territory and allow them to become an internationally recognized independent state.

There were several actions that can be seen as consistent with the peacebuilding literature that may have set this UN action apart from the failure in Rwanda. As portrayed as a potential barrier to peacebuilding by Menocal, any third party actor must ensure that they walk the fine line between assisting the newly established government and allowing themselves to become the newly established government. Prior to the signing of the Namibian/Angola accords, the UN had established themselves to temporarily govern Namibia; however they were never able to implement this without concession of South Africa.²²⁰ Once South Africa did concede the UN established UNTAG as an assistance group rather than implementing a temporary government.²²¹ This allowed SWAPO to establish their particular government infrastructure with UN assistance rather than under UN structure. Also, unlike the Rwanda situation, both parties held similar positions in regards the necessity of agreement. SWAPO was significantly weakened by the

²¹⁹ Ibid Pg. 5

²²⁰ Matheson, Michael J. "United Nations governance of postconflict societies." *American Journal of International Law* (2001): 76-85.

²²¹ Ibid Pg. 77

withdrawal of Angolan and Cuban forces and South Africa, while mired in a stagnating economy, was spending close to one million dollars a day that they could not afford to sustain.²²² Therefore both parties to the conflict had reason to concede and negotiate. The last connection to the literature was that the UN, by declaring SWAPO as the legal representative for Namibia, did not maintain neutrality within their role as a peacekeeping force. This potentially detracts from Menocal's claim that third party neutrality is a key component of ensuring that there isn't a route back to conflict.

In order to accomplish this mission UNTAG was formed and deployed which included military forces with the mission of observing and enforcing the peace, police observer units, charged with observing the South West African Police, and civilian entities charged with supply, election expertise and communications abilities.²²³ In total there were 4,650 members of the military portion, 1,498 police monitors and at least 1,700 election monitors, not to mention numerous civil servant UN employees, other support employees and members of Non-Governmental Organizations (NGO's) who were also on the ground in support of this mission.²²⁴ In the end twenty one independent states provided support for UNTAG, either through funding or the presence of personnel. The UNTAG mission had three main components that included the demobilization of South African troops from Namibian territory, ensuring the withdrawal of Cuban troops from Angola and the oversight of internationally recognized fair elections in order to create the Namibian State.²²⁵ Under these primary missions, were also the requirements

²²² Berridge, Geoffrey R. "Diplomacy and the Angola/Namibia accords." *International Affairs (Royal Institute of International Affairs 1944-)* (1989): 463-479.

²²³ Ibid Pg. 6-7

²²⁴ Ibid Pg. 6-8

²²⁵ Diehl, Paul F., and Sonia R. Jurado. "United nations election supervision in South Africa: Lessons from the Namibian peacekeeping experience." *Studies in Conflict & Terrorism* 16, no. 1 (1993): 61-74.

to ensure law and order, prepare for the elections, and to ensure the release of political prisoners in conjunction with the inevitable influx of refugees into the country.²²⁶

Historically this mission is viewed by the international community as a success as Namibia did become an independent sovereign state that is currently self-sufficient and stable. That does not mean however that the United Nations should take all of the credit for this. The primary reason that this mission did succeed is based on the overall cooperation of the parties involved. There were actually several incidents that could have derailed the state building process that were also out of the control of the United Nations. The truth is that the force provided was smaller than even the UN advisors had initially anticipated or required, primarily due to many of the member states being unwilling to provide the adequate funds and personnel that the UN felt that they would require to be successful.²²⁷ The lack of required support forced the UN to accept troops from countries who the opposition group did not feel were neutral in their stance on democracy.²²⁸ The number of troops was also insufficient to keep PLAN from engaging in cross border conflicts or the South Africans from attempting to influence the outcomes of the elections. It was actually South African restraint from carrying out several plans that allowed the elections to remain fair.²²⁹ Some will argue that the presence of the International community and the UN kept the South Africans from carrying out their election manipulation but the fact that some intimidation did occur with little UN intervention shows that it is more likely restraint that kept more from happening.

²²⁶ Ibid Pg. 62

²²⁷ Dale, Richard. "The UN and African Decolonization: UNTAG in Namibia." In *Transafrica Forum*, vol. 8, no. 3, pp. 31-48. 1991

²²⁸ Diehl, Paul F., and Sonia R. Jurado. "United nations election supervision in South Africa: Lessons from the Namibian peacekeeping experience." *Studies in Conflict & Terrorism* 16, no. 1 (1993): 61-74.

²²⁹ Ibid Pg. 65

There were also other deficiencies highlighted with UNTAG. First is the question of neutrality and whether or not the UN was impartial? From the South African viewpoint the UN could not be impartial because they had already recognized SWAPO as the official representative of the Namibian people and South Africa's annexation of their territory as illegal.²³⁰ On the other side the South African government was attempting to manipulate the elections results and, while SWAPO complained to the UN, without an investigative division, the UN was unable to actually substantiate any of these claims or keep them from occurring.²³¹

Analysis Rwanda:

The genocide in Rwanda highlights the speed at which an operation can deteriorate and the necessity for the establishment of a secure environment prior to peacebuilding occurring. The Ashura accords themselves fostered the continued division between the two groups and with the slow response of the UN; extremist elements were able to garner support unhindered. Once the UN PKO did arrive on the ground much of the damage was already done and the UN had to quickly respond to a deteriorated situation. This requires a response capability predicated on the ability of the operations to adjust to the climate on the ground. This is a basic emergency management principle of flexibility. The UN already had elements on the ground whose presence had been accepted by both parties to the conflict; however the peace was tenuous at best. One spark, the death of President Habyarimana, was all it took to initiate the fire that was the Rwandan Genocide. The UN forces were unfortunately not prepared to actually carry out

²³⁰ Ibid Pg. 63

²³¹ Ibid Pg. 64

their mission of enforcing the peace, once that peace broke down. They were prepared to provide a presence and therefore deterrence but once one side committed to ignoring the international community, the UN was helpless to respond. The UN only had 5,000 soldiers in country compared to 30,000 plus from each side of the conflict. These units were also spread throughout the country but concentrated in the highly populated areas. There was very little presence in the more rural areas. These units were Danish, French, or from Belgium, all under the UN Blue helmet force but each had their own commander, their own rules of engagement, their own training and their own equipment. There appears to have been no clear rules of engagement once actually faced with an opposition force. Not to downplay the acumen of the soldiers on the ground but they were there to enforce a peace, not engage in direct combat with numerically superior forces. Once the Belgian soldiers took casualties their country was quick to pull their support for the mission and push to bring their soldiers home.²³² I have always heard that soldiers' coming home in body bags is bad politics for any government leader. This created a cascading affect that lead to the initial drawdown or the 'defend in place' stance that most peacekeepers took. The member states placed the value of their soldiers over the value of the victims to the genocide.

This example highlights three key failures of the UN response to the conflict. First that initially it can be difficult for the UN to establish a responding force in a location with little geopolitical advantage. Powerful countries often invest when there is return, commodities like oil, or in defense of an established historical relationship. Most fragile countries have very little to offer, otherwise there would be more outside investment to

²³² Barnett, Michael N. "The UN Security Council, indifference, and genocide in Rwanda." *Cultural Anthropology* 12, no. 4 (1997): 558

begin with. This can often leave peacekeeping operations vastly under supported. Once countries do commit they can be quick to rescind once the situation deteriorates, when their support is actually needed most. It may not even be a situation within the area of conflict. Some coalition countries may have an internal conflict, a change of their own leadership, an economic downturn, or internal struggle, which could lead them to withdrawal support. Lastly a coalition is difficult to manage due to chain of command structure, different training and different equipment compatibility issues. A Danish soldier will receive different training, answer to different command structure and have different equipment than say a Nigerian soldier. During periods of crisis, when time is of the essence, that equipment compatibility failure is highlighted.

Analysis Namibia:

The Namibia success actually highlights some of the very same deficiencies that facilitated the failure in Rwanda. The force deployed in Namibia was far smaller than what was recommended to cover the natural geography of the region and to monitor an opposition force as large as the two conflicting parties could field. The UN set an initial goal of 7,500 peacekeepers; however they were only able to put together an operational force of less than 5,000.²³³ This figure even included some support personnel and logistics personnel. The UN even had to rely on personnel from countries that maintained an authoritarian government (Togo) to establish a democratic government. This lack of personnel was evident when SWAPO forces violated the peace agreement and entered Namibia. First the peacekeeping forces were so spread out that they were initially

²³³ Dale, Richard. "The UN and African Decolonization: UNTAG in Namibia." In *Transafrica Forum*, vol. 8, no. 3, pp. 31-48. 1991.

unaware of the violation. Second when they were made aware, their forces were insufficient to stand against the SWAPO forces and they were forced to rely on South African Defense Forces (SADF), which could have easily unbalanced the operation.²³⁴ There were some human rights violations carried out by these forces that would have been avoided if the UN had adequate forces available. Some may even argue that the success of the mission was more due to the constraint of the conflicting parties rather than the presence of UN soldiers.

So while again due to inadequate force the UN was unable to provide for the foundation of a secure environment that could have damaged the potential peacebuilding process. However, the fact that both parties to the conflict were ready to make certain concession in order to achieve their goal of ending the war was more vital than security. There were a lot of other positives that can be observed from this operation. One of the key take a ways is the need for specialization within the peacekeeping forces. One of the components to the success of this mission was the diversification of personnel assigned to UNTAG specific to their assigned tasks. This operation had the standard peacekeeping force, however this component, when faced with actually engaging one side due to a breach, they could not effectively respond. They also incorporated police monitors and election specialists. The police monitors were embedded with the local units charged with keeping the peace. They had the role of advising and training as well as monitoring to ensure that no human rights violations were carried out by those charged with enforcing law and order. This is not a perfect system, and does require the cooperation of local police; however it is a vast improvement over asking soldiers to carry out police missions. The UN police monitoring personnel were specialists in policing from the

²³⁴ Ibid Pg. 8

different countries that supported the mission. The election specialists had the two part roles of advising those who were setting up the elections and monitoring the election venues to ensure that they were not tainted. Since the parties vying for power were both represented in the election process it is vital for both to acknowledge the end results as fair and unbiased. This is also vital for the international community to recognize the elected government as the true representative of the country. This can only occur with the presence of impartial parties ensuring the validity of the results.

Another shortcoming of this operation was the UN's inability to investigate complaints coming from both sides of the conflict. As the group charged with monitoring the peace agreement, the ability to investigate violations of that agreement should be a fundamental component of the UN response. This was not the case however as there was no mechanism for the UN to process and investigate complaints against SWAPOL or the Koeveot (a militant arm of the SADF), even though they had over 900 complaints against them to include 370 from their own forces.²³⁵

The last inadequacy of the UN response that needs to be addressed is that of cost. An estimate is that the United States and South Africa owed around \$562 million dollars for this operation.²³⁶ Countries that did supply troops and equipment were required to pay their soldiers out of their own budgets while assigned to this UN mission.²³⁷ Often this leaves only the major global powers like the United States and Europe capable of supporting peacekeeping operations. The stigma associated with this has always been the westernization of the rest of the world, similar to the international response to the colonization period. It is vital to mission success that the countries directly affected by

²³⁵ Ibid Pg. 9

²³⁶ Ibid Pg. 10

²³⁷ Ibid Pg. 6

the failed state participate in the action necessary to develop and sustain a viable and legitimate governmental structure.

The Role of PMSC's in Peacebuilding:

In regards to Rwanda, the UN was unable to provide for the foundation of peacebuilding which is the security that allows for the free range of movement and the inclusion of the society into all aspects of the peacebuilding process. Instead when things broke down the UN did not maintain the personnel required to intercede. Similar to peacekeeping operations the ability of PMSC's to deploy rapidly could have been used as a force multiplier to re-establish the peace. It is also vital for NGO's and Humanitarian serves of the private sector maintain the ability to operate within the country that they are attempting to develop. PMSC's could provide the protection services necessary to enable these entities to operate while any peace remains tenuous. Once the environment has been stabilized PMSC's could be incorporated into the training of local actors in order for them to provide their own security. This was not seen in Rwanda as the peace there deteriorated prior to the peacebuilding measures of the Ashura Accord taking hold. In Namibia however we do see the incorporation of private organizations to monitor the elections results and police training provided by the UN PKO's that helped establish the security necessary for elections to occur.

Conclusion:

The two operations were very similar in nature as both had difficulty garnering the necessary support for success in terms of personnel and were therefore understaffed

for the mission parameters. For Rwanda all it took was one party to decide to break the fragile peace and the Peacekeeping operations forces were ill equipped to respond effectively to the threat. The same can be said about both sides in the Namibian operation. Examples of this would be the PLAN moving their forces into Namibian territory and the SADF human rights violations while responding to the PLAN movement. Also there was evidence of South Africa's attempts to manipulate the election results. Since both operations were inadequate, the primary catalyst between success and failure can be seen as the constraint of the conflict parties over UN presence. This does not mean that the UN does not have a role or importance in responding because the conflict existed prior to their involvement, however with inadequate forces the UN is incapable of actually keeping the peace once one side removes their support for the operation. What can be garnered from both responses is the need for improvement by the UN for future operations in regards to cost, support and the establishment of an investigative mechanism. From the Namibian operation we observe the need to for specialization as a key component of effective response.

IV. Private Military Security Companies

“This inevitability of conflict motivates us today and echoes the reminder that freedom is not given away and our national security is not achieved without sacrifice.”---Jim Walsh

There have been two primary catalysts that have thrust Private Security Companies (PSCs) into the forefront of international society and have caused the debate as to what their primary role within this society must be. These two events are the end of the cold war and the September 11th 2001 terrorist attacks. The end of the cold war has caused the global powers to limit their arms race and reduce the number of troops within their militaries, while relying more heavily on technological advancements.²³⁸ This is fine during periods of peace; however during periods of conflict, these smaller militaries cannot sustain some of the required duties necessary to the conflict.²³⁹ Military forces have therefore turned to PSCs in order to supplement their forces leading to the multibillion dollar enterprise that is the Private Security Industry.²⁴⁰ The technological advancements also called for more specialization than can be offered in most volunteer military forces causing the military to outsource control over some of their weapons systems to private organizations.²⁴¹ After the September 11th terrorist attacks the military forces were further divided and stretched between two fronts of Afghanistan and Iraq which only highlighted their reliance on PSCs. Further exasperating this issue was the decisive victory against our enemies within both fronts which left our military forces to engage in a new task that they were not prepared for, which was the inevitable nation building. We currently live in the age of terrorism in which there are no specific fronts to

²³⁸ Avant, Deborah. *The Market for Force*. Cambridge: Cambridge University Press, 2005. Pg. 30

²³⁹ Ibid Pg. 31

²⁴⁰ Percy, Sarah. *Regulating the Private Security Industry*. New York, NY: Routledge, 2006 Pg. 22

²⁴¹ Avant, Deborah. *The Market for Force*. Cambridge: Cambridge University Press, 2005. Pg. 19

this war. This requires all private organizations who want to participate within the global market to ensure the security of their operations against a plethora of enemies. For this reason PSC's are not going to fade away but rather become an integral part of the international community.

As PSCs became more relied upon within these conflicts there were several controversial events involving members of this industry which caused many people to delegitimize the role of these organizations within these conflicts by comparing these PSCs to mercenary forces.²⁴² Some of these events we will address later as case studies to include the 2007 Blackwater shooting which reportedly left 17 civilians dead.²⁴³ Mercenaries and PSCs vary in many different ways and therefore should not be considered in the same category. The primary differences between these two entities are their organization, or lack thereof for mercenaries and the fact the PSCs do not engage in offensive combat while Mercenaries often have, even professionally like the companies Sandline and EO in the early 1990's.²⁴⁴ PSCs do use force but this is for defensive and protective purposes.²⁴⁵ One of the primary mechanisms for determining the difference between mercenaries and PSCs is an established contract. Mercenaries usually do not maintain formal contracts or if they do they may incorporate illegal activities.²⁴⁶ It is for these differences that PSCs need to gain legitimacy within international society in order to avoid the stigma that has been associated with mercenary forces. The first step for this to occur is by the United Nations (UN) separating their working group on Mercenaries

²⁴² Percy, Sarah. *Regulating the Private Security Industry*. New York, NY: Routledge, 2006 Pg. 14

²⁴³ U.S. House, Committee on Oversight and Government Reform, Memorandum; *Additional Information about Blackwater USA*, October 1, 2007

²⁴⁴ Percy, Sarah. *Regulating the Private Security Industry*. New York, NY: Routledge, 2006 Pg. 14

²⁴⁵ Ibid Pg. 14

²⁴⁶ Ibid Pg. 14

from that on PSCs. Currently the two are linked under the same umbrella within the UN.²⁴⁷

In order to determine whether or not regulation will increase legitimacy one first must articulate their definition of legitimacy. This is not any easy word to define as legitimacy could mean many different things to different parties. For example, while a majority of civilized society has deemed the State of Israel as a legitimate sovereign country, there is also an opposing viewpoint by some in the Middle East who refute this claim. In regards to Private Security Companies however I argue that total opinion is not necessary but rather a majority opinion that consists of the principle international authorities in conjunction with the States in which the PSCs are operating. Ian Clark presents his theoretical concept of legitimacy in his book “Legitimacy in International Society.”²⁴⁸ The main principles outlined in this book are that legitimacy is defined through three main avenues of “Legality, morality and Constitutionality”.²⁴⁹ These methods are the catalysts for ensuring that the party in question adheres to the established social norms and is thereby determined to be legitimate through the consensus of the majority.²⁵⁰ Ian Clark’s first principle of legality, when viewed against the establishment of PSCs, would require the existence of some form of legislation by which the PSCs could be held accountable for their actions. Along the same concept, Ian Clark’s second principle could be viewed as the adherence of PSCs to social norms. Lastly the idea of constitutionality should be viewed as the establishment of standards by the private security industry and an external unbiased regulatory body. It is thru this window of

²⁴⁷ Ibid Pg. 44

²⁴⁸ Clark, Ian. *Legitimacy in International Society*. Oxford New York: Oxford University Press, 2005.

²⁴⁹ Ibid pg. 19

²⁵⁰ Ibid pg. 191

legitimate principles that I will make my argument for a more robust international legislative form by which the world can ensure that the actions of PSCs within regions of conflict are held to an established standard and that there is a mechanism in place that would hold the PSCs accountable for any violations of these standards. As defined by the theoretical concept, this would establish PSCs as legitimate in the eyes of the global industry which would allow them to fulfill their primary mandate of protection.

When trying to explain the relationship between legitimacy and regulation, for my own clarity, I like to use the illustration of my brother in law Matt. Matt has spent the last thirteen years of his life serving in the United States Army. During this service he has deployed a total of six times and has served in both the Afghanistan and Iraqi theaters. His primary role within his unit was as a sniper. He therefore spent a majority of his time teaching and training other soldiers how to be proficient at shooting. Matt recently was medically retired for an injury that he received on his last deployment. In order to find work he moved to the Northern Virginia area and wanted to continue teaching people how to shoot. There is no question that he is proficient in this role however, regardless of his past experience, in order for him to accomplish this goal he was required by the Virginia Department of Criminal Justice Services (DCJS) to become licensed and registered in the State of Virginia. Matt attended the required courses and is now, in the eyes of the State of Virginia, and via the consensus of local society, a legitimate firearms instructor. The relevant moral to this example is when Matt approached me after receiving his validation cards and stated that he did not learn anything new throughout this process and could have taught people how to shoot just based off his prior experience but without the card from DCJS he would not have been able to open a legitimate

business within the State. This should be the same for PSCs on the international level. While PSCs can operate without it, the appropriate regulation should lead to their legitimacy within the viewpoint of international society.

The use of non-state sponsored entities during periods of conflict is not a recent phenomenon. Private Security Companies have been around since the 1800's in the United Kingdom and many private companies like the Pinkerton Detective Agency and Wells Fargo were around long before many Federal law enforcement agencies in the United States.²⁵¹ The United States even used Private Security Companies during the Vietnam War to support its conscript military forces.²⁵² For my purposes I will not differentiate between Private Military Security Companies (PMSC) and Private Security Companies (PSC) like many scholars do since their actions are in most ways interchangeable and therefore can change based on a specific mission. What I am looking at is the use of either entity within an area of conflict; therefore, going forward, I will describe both as PSCs.

While not new, there has been a recent increase in the use of PSCs by states in order to support dwindling military strengths due to the close of the Cold War.²⁵³ While these entities have been placed within the theaters of foreign wars, what has not occurred is clear and distinct international legislation that would ensure that these organizations do not engage in activities that would be considered violations of societal norms. As the line between the roles played by PSCs and state conscripted military forces becomes blurred there has been a growing outcry for an establishment of control from different scholars.

²⁵¹ Isima, Jeffrey. 2009. The global marketplace and the privatization of security. *IDS Bulletin* 40 (2) (03): Pg. 114

²⁵² *Ibid* Pg. 114

²⁵³ Gomez-Del Prado, Jose. 2011. Impact on human rights of a new non-state actor: Private military and security companies. *Brown Journal of World Affairs* 18 (1) (Fall): 151-69

Without specific regulations to hold these organizations accountable they will continue to be viewed by society as an illegitimate group of thrill seeking mercenaries who choose to enter onto the field of battle, not for any moral cause but rather for financial compensation. It is my contention that by establishing legislative international controls over the deployment of PSC's during conflict this will lead to a more legitimate viewpoint for what could be a vital component of global stability.

Literature Review:

The only document that has been drafted in an attempt to specifically define the use of PSCs, within global conflict, is the Montreux document. The Montreux document is an international collaboration of eighteen states that came together in an attempt to present a unified definition of PSCs, establish any current international laws with which PSCs could be held accountable and to present guidelines for how home states, contracting states, territorial states or other states should regulate PSCs.²⁵⁴ One of the valuable aspects that came from this group was a definition of the potential players that should be responsible for PSCs. This document defined these players as "Contracting states" which represent whatever state actually contracted their use. "Territorial States" are the location in which the PSCs are operating and "Home States" are the location where the PSC headquarters is.²⁵⁵ For example Blackwater USA (now Academi) originates in North Carolina, USA (home state) but could be contracted by the United Kingdom (contract state) for work in Iraq (territorial state). While these definitions help the international community understand the players, it did not designate any one

²⁵⁴ Swiss Federal Department of Foreign Affairs. *Montreux Document*. Legal Report, Berne, Switzerland: Directorate of International Law, 2007.

²⁵⁵ Ibid Pg. 10

particular entity as responsible for the actions of the PSC. It actually helps blur the lines further by placing the onus of control on all parties involved. This document does establish which existing international laws can be used, based on their interpretation, to hold the PSC organizations accountable for their actions. The established International Humanitarian Law (IHL) is this definitive mechanism but again, without a distinct relegation of authority, most components home, territorial or contract states, will look to point fingers at each other for responsibility rather than hold these organizations accountable. Cockayne in his article looks at the importance of the Montreux document in establishing the definition by which PSCs would fall under current IHL doctrine but he also highlights that most of the enforcement guidelines presented in the document are not legally binding.²⁵⁶ He also breaks down the specific sections of this document to show how the developing bodies came to their conclusions. His dissection of this document did show a lack of enforcement criteria which is common with most international laws. Without specification on who is responsible for prosecuting violations of IHL or for ensuring that the International Court has the ability to prosecute, then it can be assumed that some incidents that do violate IHL would fall through the cracks.

Gomez Del Prado takes a look into whether or not IHL has been used to hold contractors accountable in the past and conducts several case studies to highlight examples of how individual PSC contractors have not been held accountable for some egregious actions that include the indiscriminate killing of noncombatants and rape.²⁵⁷ One of the means by which countries are bypassing the responsibility for adhering to

²⁵⁶ Cockayne, James. "Regulating Private Military and Security Companies: The Content, Negotiation, Weaknesses and Promises of the Montreux Document." *Journal of Conflict and Security Law*, Vol 13 No.3, 2009: 401-428. Pg. 415

²⁵⁷ Gomez-Del Prado, Jose. 2011. Impact on human rights of a new non-state actor: Private military and security companies. *Brown Journal of World Affairs* 18 (1) (Fall): 151-69

local law is via the method of an agreement between the contract state or territorial state and the home state in which the rights to prosecute any crimes by the contract state are waived and therefore the sole responsibility of the home state. An example of this is “Order 17 issued by the Coalition Provisional Authority (CPA)”²⁵⁸ which granted immunity from prosecution to contractors working within Iraq.²⁵⁹ Gomez Del Prado takes an even closer look at the lack of legitimacy for PSC’s by conducting a comparison between them and mercenaries as defined by the United Nations.²⁶⁰ The United Nations has taken a closer look at these issues in 2005 and 2010. Their findings call for the registration and licensing for all PSCs, however Gomez Del Prado states that this is not enough.²⁶¹ Beyond licensing and registration what is also needed is clarification and an establishment of international law similar to the Geneva Convention which, based on treaty, can be enforceable.²⁶²

Cockayne did dip into the idea of using the Montreux document as a baseline for contract development between the contract state and the PSC.²⁶³ Cioto takes this process one step further by describing the use of PSCs directly for contractors whose actions are carried out in a purely international maritime environment.²⁶⁴ For the commercial shipping industry there does not have to be a specific host state or contracting state therefore how can either entity be held responsible for the actions of the PSC? The effects of globalization will only continue to blur these lines as many organizations are no longer maintained in one specific state. Cioto argues that this responsibility will fall on the

²⁵⁸ Ibid Pg. 153

²⁵⁹ Ibid Pg. 153

²⁶⁰ Ibid Pg. 160

²⁶¹ Ibid Pg. 163

²⁶² Ibid Pg. 163

²⁶³ Ibid Pg. 411-417

²⁶⁴ Coito, Joel Christopher. 2013. Pirates vs. private security: Commercial shipping, the Montreux document, and the battle for the Gulf of Aden. *California Law Review* 101 (1) (02): 173-226.

shipping company, many of whom are global entities with headquarters in various states and therefore there should be standards for operation that include contractual restraints for violations of international law.²⁶⁵ Cioto uses the Montreux documents suggested guidelines for the development of contracts in order to ensure that there is some form of accountability. This should include established training requirements, use of force policies and contractual penalties for failing to uphold these standards.²⁶⁶ Cioto also highlights an issue with the use of current IHL for PSCs within a maritime environment. Based on the established IHL doctrine, these laws were not written with attention to private entities but rather to the actions of states during periods of conflict.²⁶⁷ According to Cioto, the Montreux document and the United Nations Security Council make a broad interpretation of established IHL as written by the Geneva Convention in order to make the correlation between IHL and PSCs.²⁶⁸ Regardless of IHL applicability which, based on Cioto, Cockayne and the caveats found in the Montreux document, they are unclear at best, the other viable option of contractual provisions would not solve the issue of accountability. Contract law does not usually hold an individual responsible to criminal legislation but rather the PSC organization. Historically, like the Coalition Provisional Authority agreement in Iraq; most contracts will push for immunity from prosecution. Companies justify this due to their normal areas of operation being within areas of conflict that usually do not maintain established or uncorrupt criminal justice systems. The written contract could specify legal accountability however the contracting body may not have the enforcement mechanism that will give the individual a fair unbiased trial.

²⁶⁵ Ibid Pg. 223

²⁶⁶ Ibid Pg. 224

²⁶⁷ Ibid Pg. 206

²⁶⁸ Ibid Pg. 208

Based on the suggestions of the Montreux document or contract law, individual contractors could still not be prosecuted for violations of societal norms, which would not lead to an increase in legitimacy of PSCs.²⁶⁹

Cioto also touched on another mechanism for PSC accountability since, if contracted by the Department of Defense, individual contractors and the contracting organization would fall under the jurisdiction of the Uniformed Code of Military Justice, Law of the United States or laws of a foreign government as established by treaty.²⁷⁰ This mechanism was established via the Military Extraterritorial Jurisdiction Act of 2000. This established law was readily discounted by Cioto since it was only applicable to Department of Defense contractors and not Department of State contractors.²⁷¹ This is currently being tested with the recent convictions of DOS contractors under MEJA in Federal court for the Nisur Square incident. It is yet to be seen whether this conviction holds up in court.

Doug Brooks is another scholar that offers a unique perspective that is different from many of the other points of view. Brooks looks at the positive aspects associated with PSCs especially related to the personnel that are being hired by these organizations. Many of these contractors are retired or former military soldiers who have established the principles of honor and integrity through their service.²⁷² This is also indicative of many mercenaries. It is the organizations distinct structure, organization and actions that

²⁶⁹ Cockayne, James. "Regulating Private Military and Security Companies: The Content, Negotiation, Weaknesses and Promises of the Montreux Document." *Journal of Conflict and Security Law, Vol 13 No.3*, 2009: 401-428. Pg. 409

²⁷⁰ 106th Congress. Military Extraterritorial Jurisdiction. Public Law, 106th Congress, 2000.

²⁷¹ Coito, Joel Christopher. 2013. Pirates vs. private security: Commercial shipping, the Montreux document, and the battle for the Gulf of Aden. *California Law Review* 101 (1) (02): 173-226. Pg. 192

²⁷² Doug Brooks (2000) Messiahs or mercenaries? The future of international private military services, *International Peacekeeping*, 7:4,129-144. Pg. 130

differentiate them from mercenaries. Their definition according to the United Nations is someone who:

“Is specifically recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at: (i) Overthrowing a Government or otherwise undermining the constitutional order of a State; or (ii) Undermining the territorial integrity of a State,”²⁷³

This differentiates them from protection minded Private Security Companies who form a pseudo military organization, while mercenaries act independently of structure and contract themselves directly to an entity with no respect to international law. This definition also identifies the mission as a critical component to the definition. Based on this Brooks argues that the legitimacy needed for PSCs will come with time as those that begin to establish themselves as reputable organizations continue to gain contracts, those that don't adhere to social norms will eventually fade away.²⁷⁴ Brooks looks at the United Nations use of PSCs for peacekeeping operations in order to reinforce his points.²⁷⁵ In time, Brooks argues, PSCs will be called upon for better defined roles that are not necessary based on an expression of U.S. power but rather, as smaller conflicts building throughout the developing world continue, they will be utilized more for peace keeping operations.²⁷⁶ With this trend the security industry will continue to regulate itself via their processes of legitimization in order to ensure that the entire industry continues to grow. Organizations that have made fast cash by pushing out people without properly enforcing their activity will not continue to receive contracts and therefore will not survive. I would

²⁷³ United Nations General Assembly. "International Convention against the Recruitment, Use, Financing and Training of Mercenaries." *UN.org*. December 4, 1989. www.un.org (accessed November 8, 2013).

²⁷⁴ *Ibid* Pg. 135

²⁷⁵ *Ibid* Pg. 135

²⁷⁶ *Ibid* Pg. 141

agree to this in theory however we have seen Blackwater USA being banned from operations in Iraq only to change their name to XE and eventually Academi. This organization remains operational in Iraq and even worse is now making money via training other PSCs personnel prior to them sending them over to Iraq.

There are two other common viewpoints that have not been addressed above. Both are discussed by Brooks and Mangan in their article “The Modern use of Contractors in Peace and Stability Operations.”²⁷⁷ These two ideas are more specific than any previously mentioned. The first states that since PSCs act upon theaters of conflict, it is therefore incumbent upon the home states, if they are attempting to influence the conflict area, to have the ability to hold the PSCs accountable.²⁷⁸ I agree with this premise when basing this on the United States or the UK during operations in Iraq or Afghanistan. This is feasible due to the more prominent nations having a vested interest in the conflict area and therefore the established infrastructure to maintain the PSCs. However this is not always the case, many PSCs are contracted directly to elements within the conflict area, like President Karzi’s security detail, and therefore the United States would have no input into oversight or regulation of these entities. As an independent organization working within a global marketplace, and having a direct contract with another sovereign nation, the United States should not be held accountable to the actions of personnel when they are not involved. Along the same lines the United States has also contracted companies like Aegis Defense Services Limited which is

²⁷⁷ Brooks, Doug, and Fiona Mangan. 2011. The modern use of contractors in peace and stability operations. *Brown Journal of World Affairs* 18 (1) (Fall): 181-94.

²⁷⁸ *Ibid* Pg. 188

headquartered in London England.²⁷⁹ Is the United States as the contractor or is England as the home state responsible for this company? This of course brings up the opposite viewpoint of requiring the host nation to regulate the PSCs working within their borders. However, as we have seen in numerous countries, Iraq and Afghanistan included, these nations are undergoing internal strife and turmoil and therefore may not have the required infrastructure, like trained law enforcement, to hold these companies or their personnel accountable.²⁸⁰

The conclusion presented by Brooks and Mangan argues that, within the current legislation established by the various components of host, contract, international and home states, there is sufficient coverage to ensure the proper oversight of PSCs.²⁸¹ Based on my personal knowledge of several incidents that were highly publicized in Iraq and Afghanistan, my hypothesis is that this is not the case. In actuality the currently established governance and legislation is wholly insufficient to manage these globally controlled organizations. Therefore it is incumbent upon the international community to establish clear areas of responsibility, avenues of accountability and international licenses, security regulations and business practices, beyond the unbinding Montreux document, in order to truly legitimize this industry within the eyes of society. It is therefore my contention that an increase in regulation governing PSCs will have a direct impact on the increase in PSC legitimacy within the international community.

²⁷⁹ Elsea, Jennifer, and Kennon and Swartz, Moshe Nakamura. *Private Security Contractors in Iraq: Background, Legal Status, and other issues*. CRS Report for Congress, Congressional Research Service, 2008. Pg. 10

²⁸⁰ Brooks, Doug, and Fiona Mangan. 2011. The modern use of contractors in peace and stability operations. *Brown Journal of World Affairs* 18 (1) (Fall): 181-94. Pg. 187

²⁸¹ *Ibid* Pg. 191

In order to confirm or refute my hypothesis I plan on using the above mentioned control criteria, International Humanitarian Law, self-regulation, the Montreux document, current contract law and host vs. contract vs. home responsibilities, against a variety of case studies in which the clear violations of societal norms were made, to determine if these current regulatory principles would have sufficed to hold the perpetrators accountable to their actions. This is based on my original premise that PSCs are viewed as illegitimate within international society, as evidenced by the UN association of PSCs with mercenaries. I will also look at current entities that do maintain an international governing body and are viewed as legitimate. By highlighting both the current status of insufficient regulation and comparing this to a proven legitimate international organization that does carry international regulation, I hope to show the connection between regulation and legitimacy within the Private Security Industry. The below case studies were highly publicized via international media forums and are widely considered to be examples of illegitimate activities being conducted by PSCs within areas of conflict.

Blackwater 2007

Blackwater USA was an American organization, headquartered in Moyock North Carolina. This company was founded by Mr. Erick Prince, a former U.S. Navy SEAL, to provide a wide range of security functions from Explosive Detection K-9 teams to Dignitary Protection and Military training.²⁸² During the Iraq and Afghanistan campaigns, Blackwater provided primarily protective services for the U.S. Department of State for compensation in excess of more than one billion dollars between 2001 and

²⁸² U.S. House, Committee on Oversight and Government Reform, Memorandum; *Additional Information about Blackwater USA*, October 1, 2007 Pg. 3

2006.²⁸³ During their time in country, Blackwater engaged in approximately 200 separate events in which they discharged their weapons with several occasions resulting in the deaths of Iraqi civilians.²⁸⁴

There are too many individual incidents for which Blackwater personnel could be held accountable for violating their contractual mandate to the U.S. Department of State, Bureau of Diplomatic Security, which was to act only in a protective and therefore defensive, stance. In order to simplify, the case study I will focus only on the 2007 incident in Nisur Square, Bagdad from which 17 Iraqi civilians were killed and another 20 were wounded. Some of the details in this case are still in dispute however what has been clearly identified is that on September 16th a car bomb detonated near a location in which a U.S. Diplomat was in talks with Iraqi officials. Blackwater personnel were called in to secure the evacuation route at Nisur Square. Shots were fired, the cause of which is the crux of contention, which resulted in the deaths of the Iraqi civilian personnel mentioned above.²⁸⁵

While the specifics of this incident are still being contended, the bottom line is that this incident occurred in Iraq; therefore the investigation into the incident needs to occur at the scene, which is in that country. This could be used as an argument for host nation responsibility pertaining to the investigation and prosecution of this incident. However this is easily refuted by the fact that the Iraqi government gave up their rights to hold U.S. contractors accountable to their laws under Article 17 of the Coalition Provisional Authority (CPA) which states “under international law occupying powers,

²⁸³ Ibid Pg. 3

²⁸⁴ Ibid Pg. 2

²⁸⁵ *United States of America v Paul Alvin Slough*. 10-3006 (United States Court of Appeals District of Columbia, April 22, 2011).

including their forces, personnel, property and equipment, funds and assets, are not subject to the laws or jurisdiction of the occupied territory.”²⁸⁶ Based on this agreement all the Iraqi Ministry of Justice could do is assist the United States authorities, in this case the Diplomatic Security Service of the U.S. Department of State, with their investigation. Iraqi officials did exercise their limited authority in this case by suspending Blackwater’s license for working outside of the Green Zone in Iraq but could not bring charges.²⁸⁷

Article 17 of the CPA agreement does charge the “parent state”²⁸⁸ with the prosecution of laws from “the exclusive jurisdiction of their Parent States.”²⁸⁹ It would therefore be incumbent upon the United States to investigate and prosecute this incident. In actuality the United States Department of Justice has done just that by charging several of the Blackwater employees with “voluntary manslaughter, attempt to commit Manslaughter.”²⁹⁰ This case was initially dismissed for violations of the Constitutional rights of the defendants during the investigative process.²⁹¹ Regardless of this, one of the defendants did plead guilty to the charges prior to the case being dismissed and is awaiting sentencing.²⁹² Recently however the Department of Justice the defendants were been recharged with the same counts, however without the tainted information from the

²⁸⁶ Coalition Provisional Authority. "www.usace.army.mil." *US Army Corp of Engineers*. June 26, 2003. http://www.usace.army.mil/Portals/2/docs/COALITION_PROVISIONAL.pdf (accessed November 5, 2013).

²⁸⁷ Zagor, Adam and Bennet, Brian. "Iraq limits Blackwaters Operations." *Time*, 2007.

²⁸⁸ Coalition Provisional Authority. "www.usace.army.mil." *US Army Corp of Engineers*. June 26, 2003. http://www.usace.army.mil/Portals/2/docs/COALITION_PROVISIONAL.pdf (accessed November 5, 2013).

²⁸⁹ Ibid pg 2

²⁹⁰ U.S. Department of Justice. "Five Blackwater Employees Indicted on Manslaughter and Weapons Charge for Fatal Nisur Square Shooting in Iraq." *Department of Justice*. December 2008. <http://www.justice.gov> (accessed November 5, 2013).

²⁹¹ *United States of America v Paul Alvin Slough*. 10-3006 (United States Court of Appeals District of Columbia, April 22, 2011).

²⁹² U.S. Department of Justice. "Five Blackwater Employees Indicted on Manslaughter and Weapons Charge for Fatal Nisur Square Shooting in Iraq." *Department of Justice*. December 2008. <http://www.justice.gov> (accessed November 5, 2013).

initial investigation.²⁹³ In late 2014 an additional four members of Blackwater were convicted of “murder, manslaughter and weapons charges.”²⁹⁴ These individuals were convicted under Military Extraterritorial Jurisdiction Act (MEJA) which will now go before a Federal Appeals court in order to determine the constitutionality of this conviction.

This brings to light the most prominent discrepancy with “parent state” or “home states” investigating and prosecuting these cases. Even when this entity does maintain the infrastructure to investigate crimes on foreign soil, it is extremely difficult to carry out this investigation. Areas of conflict usually don’t have the forensic capabilities of the United States or other developed nations, investigators will rarely have the access to witnesses that the host nation will have, and in areas of severe conflict, like Iraq, the safety of the investigators could be in jeopardy. Depending on the situation, occupying forces may not be looked upon favorably by the host nation citizens which brings into question whether or not the evidence that is collected is biased. Can these contractors get a fair and impartial investigation when the witnesses may not want them in their country in the first place? Or by the time the investigators can respond, secure the crime scene and begin the investigation, how many other local entities have already been on scene and had the opportunity, either advertently or inadvertently to alter the scene prior to the official investigation? Another issue with home states prosecuting these types of incidents occurs when the contractor is hired by an entity within the host state. Dynacorp contractors were hired through the Diplomatic Security Service of the US State

²⁹³ Associated Press. *New Charges in Blackwater Shootings*. October 18, 2015. www.foxnews.com (accessed November 5, 2013).

²⁹⁴ Apuzzo, Matt. “*Blackwater Guards Found Guilty in 2007 Iraq Killings*” *New York Times*, October 22, 2014. Accessed April 26, 2014 from <http://www.nytimes.com/2014/10/23/us/blackwater-verdict.html>

Department but assigned to Afghan diplomats to include President Karzai.²⁹⁵ Would the United States still have the responsibility to prosecute even though they were not working for an American entity? While it is clear that the United States is making a valiant effort to utilize its established jurisdiction in order to hold the PSC personnel accountable but what about the PSC itself? Blackwater USA no longer exists, however it has been transformed several times in name but it remains the same organization under different management. Blackwater USA was renamed, Blackwater Worldwide, Xe Services and is currently known as Academi, but it still offers the same services with many of the same personnel.

Another issue with the prosecution of private contractors for their actions overseas by the home state relates directly to jurisdictional issues. Federal and State laws from the United States apply to actions conducted by individuals within the United States or its territories under US control. The United States does not maintain direct jurisdiction in Iraq besides that granted by the CPA and through their extraterritorial, territorial and maritime laws. In order to prosecute the members of Blackwater who were involved in the Nisur square incident, the United States turned to a provision of the Military Extraterritorial Jurisdiction Act (MEJA) which was initiated to govern individuals overseas who were associated directly with the Department of Defense (DOD).²⁹⁶ In 2004 however an amendment to this provision was added to include the contractors of other federal agencies than the DOD as long as their mission was in support of the DOD

²⁹⁵ Beaumont, Peter. *The Guardian*. November 24, 2002. www.theguardian.com (accessed November 8, 2013).

²⁹⁶ Percy, Sarah. *Regulating the Private Security Industry*. New York, NY: Routledge, 2006. Pg 27

mission.²⁹⁷ As the incident in Nisur square was in support of the extraction of a United States Agency for International Development (USAID) official (a DOS subsidiary), it will be up to the Federal Department of Justice charged with prosecuting those involved to define this as a DOD mission and the Federal courts must accept this leap. At a minimum the defense should have a compelling argument against the application of MEJA in this case. Within the same realm of MEJA is the potential ability of the military to prosecute civilians during a time of war, and when the civilian is serving in support of the military, under the uniformed Code of Military Justice (UCMJ). This may be a viable option but it will more likely leave the door open for issues under constitutional grounds.²⁹⁸ This of course will be tested in the Nisur square incident as the recent convictions go before the Federal Appeals court.²⁹⁹

Regardless of the United States efforts to implement methods by which to prosecute private contractors that fall under their areas of responsibility; this does not cover PSCs that do not fall under their jurisdiction. The next logical step in regards to ensuring PSC regulation would therefore be current International Laws. The Montreux document makes the argument that PSCs do fall under International Humanitarian Law (IHL) and therefore the contracting states, territorial states and home states all maintain the responsibility to prosecute violations of IHL by PSCs.³⁰⁰ The problem with this document can be found in the introduction which states “This document, and the

²⁹⁷ Elsea, Jennifer, and Kennon and Swartz, Moshe Nakamura. *Private Security Contractors in Iraq: Background, Legal Status, and other issues*. CRS Report for Congress, Congressional Research Service, 2008. Pg 24

²⁹⁸ Ibid Pg. 27

²⁹⁹ Doyle Michael, *Legal questions loom in Blackwater Convictions*. McClatchy Washington Bureau October 23, 2014. Retrieved April 26, 2015 from <http://www.mcclatchydc.com/2014/10/23/244495/legal-questions-loom-in-blackwater.html>

³⁰⁰ Swiss Federal Department of Foreign Affairs. *Montreux Document*. Legal Report, Berne, Switzerland: Directorate of International Law, 2007.

statements herein, do not create legal obligations.”³⁰¹ This entire document only gives best practices for contracting companies and is not legally binding. IHL itself does not cover PSCs specifically therefore the application of IHL is based on the interpretation and projection of IHL which has yet to be tested. Under rule 5 of IHL “Civilians are persons who are not members of the armed forces,”³⁰² Under the auspices of responsibility the “State is responsible for all acts committed by persons forming parts of its armed forces”³⁰³ PSC personnel should be considered civilian personnel and therefore they may not be granted many of the protections of IHL or fall under its jurisdiction. The bottom line is that the application of IHL to PSCs is controversial at best and to my knowledge there have been no attempts to prosecute members of any PSC under IHL to date. Therefore, as private citizens, the members of Blackwater who were involved in the Nisur square incident do not fall under the jurisdiction of IHL.

An area of regulation that has developed, with the increased use of PSCs during periods of conflict, is that of self-regulation. PSCs, in order to increase their legitimacy, want some semblance of structure and accountability in order to ensure that the industry is viewed as a legitimate component of international society. In order to display this structure PSCs had developed standards and guidelines, based on a best practices formula, which can then be projected via membership to certain groups. This membership is contingent upon adhering to the established best practices as set forth by their codes of conduct. Some examples of these membership groups are the International Stability

³⁰¹ Ibid Pg. 11

³⁰² Henckaerts, Jean Marie and Doswald-Beck, Louise. *Customary International Humanitarian Law Volume I: Rules*. New York: Cambridge University Press, 2005.

³⁰³ Ibid Pg. 530

Operations Associations (ISOA)³⁰⁴ and the International Code of Conduct for Private Security Service Providers (ICoC) that was established by the International Committee of the Red Cross (ICRC).³⁰⁵ These organizations incorporate established international laws that may not apply directly to PSCs however by making their membership contingent upon adhering to these established laws they are able to develop their application to PSCs. In order to give these organizations teeth, federal governments make their membership mandatory for bidding on the lucrative government contracts. For example the US State Department has made membership within ICoC a prerequisite for bidding on the Worldwide Protective Services (WPS) program which contains billions of dollars' worth of potential protective contracts throughout the world.³⁰⁶ The problem with self-regulation is that it does not need to be adhered to by the PSC when things do go wrong. It is not binding. Based on the continued existence of Blackwater's development into Academi and its recent incorporation into ICoC,³⁰⁷ this goes to show that companies can transform themselves from illegitimate to legitimate entities after an incident occurs. Therefore the companies can dump the individuals who perpetrate the crimes, transform themselves, and remain a viable company within the eyes of the Private Security Industry. The new leadership may take the organization in a different direction but they cannot change the past.

Another viable option for the host or contracting state was set forth in the Montreux Document which established the incorporation of International laws via

³⁰⁴ International Stability Operations Association. "ISOA Code of Conduct." Code of Conduct, 2011.

³⁰⁵ International Committee of the Red Cross. *International Code of Conduct for Private Security Service Providers*. Code of Conduct, International Committee of the Red Cross, 2010.

³⁰⁶ US Department of State. "State Department to Incorporate International Code of Conduct into Worldwide Protective Services Contracts." *State.gov*. August 16, 2013. www.state.gov (accessed November 8, 2013).

³⁰⁷ ICoC. "The International Code of Conduct for Private Security Service Providers Singnatory Companies." August 1, 2013. www.icic-psp.org (accessed November 8, 2013).

contract. By implanting the requirement for PSCs to adhere to IHL or any other established international law, within the contract, the host nation is able to maintain a semblance of accountability via established fines and potential breach of contract. As all PSCs base many of their decisions on the bottom dollar the potential for losing revenue for a violation of the contract could be enough motivation for PSCs to adhere to the provisions established by the contract. Within this vein the host nation or contracting state can establish use of force, background checks on employees, adherence to local laws or an investigative oversight requirement within the contract making it legally binding for the contract company.³⁰⁸ None of these provisions appear to have been implemented in the contract between Blackwater and the US Department of State (DOS) as the only impediment that came from their actions was a review by DOS officials moving forward and the removal of Blackwater's license to operate by the Iraqi officials. Either way this method of accountability does not actually hold individuals liable for their actions in regards to prosecution.

This incident occurred in 2007, six years later Blackwater USA has transformed into Academi and remains a viable billion dollar PSC with contracts all over the world. The perpetrators of this incident, while recently convicted, the outcome remains in question. The innocent victims of this tragedy still have not received final vindication and their families have not received any true answers as to what went wrong. This should be enough to show that the current accountability for PSCs within international society is insufficient at best.

³⁰⁸ Percy, Sarah. *Regulating the Private Security Industry*. New York, NY: Routledge, 2006.

Case Study: Abu Ghraib

PSCs provide for a wide range of services, many of which do not participate in hostilities but rather are supportive in nature. Some of these noncombatant services are translation and detainee interrogation. Abu Ghraib prison is located in the vicinity of Iraq and was used by military forces and contractors to house suspected insurgents. In 2004 photos of prisoners being subjected to humiliation were released causing uproar from many Iraqis and Muslims. At that time this facility was run primarily by the US Military but there were also factions of contractors from CACI International Inc. and Titan Corp who were responsible for the interrogation and translation of prisoner's interrogations.³⁰⁹ These photos precipitated allegations of torture both physical and mental in nature.³¹⁰ Investigators charged several U.S. Military soldiers who were convicted of a variety of charges. However, even though at least four contractors were found to be directly involved and two were found to be complicit, no contractors have been charged with any crimes.³¹¹

Similar to the Blackwater 2007 Nisur square incident, the contractors at Abu Ghraib fall under the CPA and are protected under Article 17, therefore they could not be held criminally liable for their actions under Iraqi laws.³¹² Unlike Blackwater 2007 and primarily due to the focus of the investigation being on US Military Forces, it does not appear that either CACI or Titan had their licenses to operate in Iraq revoked by the Iraqi Interior Ministry.

³⁰⁹ Bina, Mark. "Private Military Contractor Liability and Accountability After Abu Ghraib." *The John Marshall Law Review*, 2004-2005: 1237-1263.

³¹⁰ Ibid Pg. 1246

³¹¹ Ibid Pg. 1247

³¹² Coalition Provisional Authority. "www.usace.army.mil." *US Army Corp of Engineers*. June 26, 2003. http://www.usace.army.mil/Portals/2/docs/COALITION_PROVISIONAL.pdf (accessed November 5, 201

Since Iraq has waived its jurisdiction to prosecute these contractors it should be incumbent upon the United States as the parent state to hold them accountable. The military personnel involved with this scandal have been prosecuted under the UCMJ; however no criminal charges have been filed against the contractors who were shown to have participated in the same events as the military. This does not mean that there are not current US laws under which charges could be filed which include the war crimes act (18 U.S.C 2441), torture act (18 U.S.C 2340) and MEJA.³¹³ Each of these laws is at best untested and therefore there is little precedence by which the Department of Justice can look to in order to determine which would be appropriate in this situation. Also each of these has been argued to not apply. The torture act only applies to actions occurring outside of the special maritime and territorial jurisdiction (SMJT) of the United States. Abu Ghraib falls within this jurisdiction therefore the torture laws do not apply.³¹⁴ The War Crimes act is the application of the Geneva Convention provisions onto US jurisdiction however the contractors at Abu Ghraib were classified as unlawful combatants and therefore this act does not apply to them.³¹⁵ Since Abu Ghraib's distinction as within the maritime and territorial jurisdiction it should apply to MEJA however, similar to Blackwater, the contractors at Abu Ghraib were not contracted by the DOD but rather by the U.S. Department of the Interior and therefore MEJA may not apply at the time of the offenses.³¹⁶ Congress has amended MEJA to include those contractors hired by other agencies who are in support of the DOD mission and therefore now this law may apply but it cannot be retroactively applied to this instance. As was

³¹³ Kierpaul, Ian. "The Mad Scramble of Congress, Lawyers and Law Students after Abu Ghraib: The Rush to Bring Private Military Contractors to Justice." *University of Toledo Law Review*, 2008: 407 -442

³¹⁴ Ibid Pg. 409

³¹⁵ Ibid Pg. 409

³¹⁶ Ibid Pg. 410

mentioned above with Blackwater, the portion of the law “support the mission of the DOD”³¹⁷ is subjective at best. Therefore any defense could present a valid argument against its application to this case.

As it appears that U.S. domestic laws covering international actions do not apply to the Abu Ghraib contractor’s and Iraq’s Interior Ministry waived its jurisdiction, one would have to look towards other alternatives of International Law or self-regulation in order to produce accountability for these PSCs. Self-regulation may affect the PSC within a market based economy however it does not produce specific accountability to individual perpetrators and as we have seen with Blackwater’s transformation and inclusion in ICoC as a legitimate organization that has pledged to follow their established code, these organizations can come back from public scrutiny and continue to thrive. Also as was seen by the inability to apply the war crimes act to these contractors due to their status as unlawful combatants this means that IHL and the Geneva Conventions also do not apply.

Criminal charges have not been filed due to the lack of clarity regarding the application of both domestic and international law specifically how they apply to PSCs. However there is a mechanism by which the victims of these crimes can at least receive financial compensation via the civil process. The Alien Tort Claims Act (ATCA) allows foreign nationals to bring a “violation of the law of nations or a treaty of the United States”³¹⁸ to the U.S. court system. Several victims of Abu Ghraib brought civil litigation against the private organizations CACI and Titan. Recent events however bring the viability of this option into question. In Virginia four of the civil cases against CACI have

³¹⁷ Ibid Pg. 412

³¹⁸ Bina, Mark. "Private Military Contractor Liability and Accountability After Abu Ghraib." *The John Marshall Law Review*, 2004-2005: 1253

been thrown out on jurisdictional questions due to the event occurring in Iraq.³¹⁹ As a slap in the face, CACI then turned around and sued the victims to recover court costs. This suit remains pending in court. The Abu Ghraib scandal and the apparent lack of accountability for the contractors that were, through the investigative process, found culpable, again show a glaring hole in the current capacity of accountability for PSCs.

Comparative Analysis: Blackwater 2007/ Abu Ghraib

The above mentioned case studies are only two of hundreds of incidents that could be studied that show the inability of any faction, be it the host state, contract state, home state or the International community to hold PSCs accountable for criminal actions occurring within areas of conflict. The importance of highlighting this issue is that the Private Security Industry, despite the United States pull out of Iraq and the winding down in Afghanistan, is only projected to grow. The United Nations has projected that the PSC industry will become a \$244 billion dollar industry by 2016.³²⁰ As this growth continues, the international community must establish a mechanism by which to ensure the oversight and accountability of companies that are actively engaged in the global market. The current legislative avenue for these entities remains vague, open to interpretation or impossible to enforce due to jurisdictional issues. The established legislation has been found wholly inadequate as can be determined specifically during the Iraq war and subsequent occupation. During this period there were approximately 180,000 contractors that were in country at the peak of the conflict and subsequent counter insurgency and yet few of them were ever prosecuted for serious crimes despite several highly publicized

³¹⁹ Raymond, Laura. "Abu Ghraib Torture Survivors Fight on Against Military Contractors." *Center for Constitutional Rights*. November 2013. www.ccrjustice.org (accessed November 9, 2013).

³²⁰ Ibid

incidents that did occur.³²¹ This lack of accountability is holding the PSC industry back from becoming a viable and important protective mechanism in the world. With the global war on terror continuing without an end in sight and the history of rolling conflicts throughout the world, PSCs could be used by everything from Non-Governmental Organizations (NGOs) like the ICRC, to private companies engaging in peace building in order to protect their members during humanitarian missions. However without the legitimization that the PSC industry is seeking through its own incorporation of self-regulation, these humanity based organizations will remain reluctant to hire and utilize PSCs. There is also the potential viability of using PSCs for peace keeping operations, without legitimacy this isn't an option as the international community would probably condemn their utilization. The premise of protection on which these companies have based their business models could greatly assist the international community during periods of conflict or after natural disasters.

In order to bridge the gap between the above identification of a lack of regulation and illegitimacy to the correlation between the two, we would have to view the opposite spectrum of a legitimate international organization that maintains current sufficient regulation. The International Civil Aviation Organization (ICAO) is a United Nations subsidiary that is charged with establishing the standards and regulations that govern aviation safety and security throughout the world.³²² As evidenced by the high volume of international travel, it can be assumed that, within the eyes of most people, this form of travel is deemed legitimate. In total this organization has 191 signatories who have

³²¹ Kierpaul, Ian. "The Mad Scramble of Congress, Lawyers and Law Students after Abu Ghraib: The Rush to Bring Private Military Contractors to Justice." *University of Toledo Law Review*, 2008: 428

³²² International Civil Aviation Organization. *International Civil Aviation Organization- A United Nations Specialized Agency*. www.icao.int (accessed December 8, 2013).

agreed to abide by the guidelines proscribed by this governing body.³²³ Failure to maintain these standards would result in the dissolution of membership which would mean that they could no longer maintain a mutual relationship with the remaining members. Most travelers are aware of the Flight Identification code that is assigned to their luggage however many are uninformed as to the ICAO designator code assigned to their flight. This code is the primary identifier to the international destination location which notifies them that the incoming aircraft meets the standards delineated by ICAO. This specific code is the catalyst used by ICAO to enforce their authority, as without it, non-member airlines are unable to utilize a member airport. With 191 countries being members, the inability to work with these countries would cause a serious decline in revenue and reduce the viability of any nation that seeks to maintain an operational airline within a global market. The ICAO structure consists of the Assembly, Council and the Secretariat. The Assembly, which has a representative from each member state, is charged with voting on issues presented by the Council, electing Council members and approving the budget.³²⁴ This Assembly meets every three years, as called upon by the council or by one fifth of the member states.³²⁵ The Council consists of 36 members as voted by the Assembly and is the permanent body that runs the operations of ICAO.³²⁶ They are also responsible for the creation and dissemination of Standards and Recommended Practices (SARP) which are the regulations by which member states must abide in order to remain members.³²⁷ The organization also maintains a training program designed to help assist with the implementation of the SARPs, and arbiter for disputes

³²³ Ibid

³²⁴ Ibid

³²⁵ Ibid

³²⁶ Ibid

³²⁷ Ibid

between members and an investigative body that ensures accountability.³²⁸ The Secretariat is the leadership position that oversees the various branches of the organization.

A regulatory body for the International Private Security Industry could mirror the regulatory body presented by ICAO. Member states would agree to abide by established regulations and failure to abide by them would result in the revocation of membership. Within this governing body would be the investigative branch that would be responsible for ensuring compliance. In addition to this regulatory and investigative body, legally binding international law should be written to specifically cover the integration of PSCs to the international marketplace. Violations of these laws would then be prosecuted in the International Criminal Court (ICC) similar to the standard IHL that so many scholars have tried to contort into being an oversight for PSCs.

Conclusion:

The current literature has called for the enforcement of current documents (Montreux) and international laws (IHL) in order to regulate the Private Security Industry. Experts have called for the implementation or enforcement of the guidelines delineated by the Montreux document into contracts, the enforcement of IHL, the application of current laws by the territorial, home or contract states or even the laissez-faire (let it be) approach of allowing the industry to regulate itself. What has been shown via these case studies and via the above critics of the literature is that each of these avenues is flawed. The case studies have shown that the actions of individuals and companies within this industry have not met the social norms or expectations for a legitimate enterprise. Since there have been few effective prosecutions to date under the

³²⁸ Ibid

current laws, and these few remain up for appeal, I believe there can be no argument that the status quo is sufficient. My hypothesis that an increase in regulation also leads to an increase in legitimacy is difficult to prove since the current viewpoint of the United Nations is that PSCs and Mercenaries are similar entities to be treated under the same focus group. I make the connection that PSCs lack of legitimacy, in conjunction with the case studies showing that there is also currently insufficient regulation, are sufficient to support the accuracy of my hypothesis. This remains a leap, however by presenting a regulatory body like the ICAO as a model for oversight that can be transferred to the Private Security Industry; one can relate an international entity that is viable, with a legitimate international organization, regulated by the UN. Based on this I feel that my hypothesis that an increase in regulation via an international regulatory body will also increase legitimacy is supported by the evidence.

Both the international community and the Private Security Industry are seeking greater oversight and accountability within the global market place. This is a mixed bag for the PSC industry since over regulation could lead to a lack of viability for a company within this market. One country cannot implement strict regulation and oversight without the incorporation of an international legislative organization, otherwise PSCs within the restrictive state will defect to more lenient countries in order to be able to compete in the global market. It is therefore incumbent upon the international community, mainly the United Nations, to establish a regulatory body charged with the oversight of PSCs acting within the international market. As we have seen through the theoretical concept of legitimacy and the push by the PSC industry to separate themselves from mercenaries in the eyes of the international community, regulation, oversight, and licensure can all be

catalysts for increasing legitimacy. With this legitimacy PSCs could be a viable component for nation building and securing humanitarian aid to NGOs acting throughout the world. With the increase in globalization and the fact that we all are facing turbulent times in regards to the war on terror, we need PSCs to protect our international critical infrastructure and therefore we need them to be considered legitimate enterprises within the International community.

V. Conclusion

*“There are many who criticize the United Nations. And those of us who know this institution well know that it is not immune from criticism. But those who argue against the United Nations advance no credible argument as to what should replace it. Whatever its imperfections, the United Nations represents a necessary democracy of states.”---
Kevin Rudd*

The case studies presented in this paper demonstrate only the tip of the iceberg in regards to the potential improvements that can be made to UN intervention structures during civil conflicts. However what is clear from just these few examples is that the UN does maintain a variety of shortcomings in regards to their response capabilities. These deficiencies are found in their mandate, their structure and within coalitions that they have deployed.

The current UN mandates of neutrality and the avoidance of intervention in the sovereignty of a nation, often forces this international organization to sit on the sidelines while atrocities are carried out. The UN has taken a stance on this by implementing “the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity” into the UN mandate.³²⁹ This would require action without agreement from parties to the conflict in several cases. As we have seen in each of the case studies, the actual ability for the UN to remain neutral once involved is a fallacy at best. During the Somalia operation, they focused their forces on the removal of General Aidid. In Sierra Leone they eventually sided with the government forces over the RUF, after the RUF forces continued the conflict anytime their position of power was weakened by the democratic process. In Namibia the UN went into the operation

³²⁹ Fortna, Virginia Page, and Lise Morjé Howard. "Pitfalls and Prospects in the Peacekeeping Literature*." *Annu. Rev. Polit. Sci.* 11 (2008): 283-301.

recognizing SWAPO as the representatives of the Namibian people over South Africa. Finally in Rwanda the UN needed to rely on the French for intervention even though they maintained a history of siding with the Hutu government. In no way do I suggest that the UN need to abandon their neutrality mandate in its entirety however, as we have seen happen, the situation will sometimes require doing what is right over the UN need to stay neutral while genocide is occurring. This realization may allow the UN to not hold so tightly to this mandate when faced with an obvious need for action and free the established peacekeeping response capabilities much earlier in a civil conflict.

Each of these events has also shown how fragile the negotiated peace process can be. Each of these operations could have gone in drastically different directions had key events unfolded differently. Successes could have been failures and vice versa. This requires a UN response force that is able to remain flexible in the face of ever changing scenarios. The key to flexibility is forward preparation and planning, plus maintaining the ability to adjust the response to the situation. We have seen in each of these events that the UN has difficulty in regards to obtaining support for an operation from their member states. Unless there is a geopolitically important reason for response, some countries are reluctant to support an operation that will only hurt them politically, while not offering anything in return. In Rwanda the French intervened because of their long history within the country. In Sierra Leone the UN force was made up of personnel donated by neighboring states who had a vested interest in the stability of that country. In Rwanda we saw the predominate force being the United States who had no real strategic interest in the area. Their troops were withdrawn after the loss of support from the American

people after the “Black Hawk Down” operation. In Namibia we saw the diversity of personnel however the force itself was far too inadequate to enforce the peace.

This inability to garner support highlights the key fundamental flaw in the UN response to humanitarian crisis around the world. Their bureaucratic structure already makes it difficult for there to be agreement, with several of the major world powers having different geopolitical interests, while also maintaining veto power within the UN structure. However even when consensus can be reached in regards to the necessity for international response, the UN must rely on their members for the funding, supplies, troops and any logistical requirements like the transportation of personnel. The process of gathering these things together takes vast amounts of time and cooperation amongst the varying countries. Countries have also withheld support in order to get concessions on other topics that are being negotiated within the UN. When people are being murdered by the thousands each day, the response mechanism cannot take months or years to establish.

Once coalition forces are established this does not mean that the member states will continue to support the mission once that mission changes. As we have seen in each of the case studies these operations are fluid, often changing based on one key event. For example the death of President Habyarimana in Rwanda or the failed capture of General Aidid in Somalia. Support from the member states can even falter in the middle of an operation, sabotaging any progress completely. We saw this in Somalia as the US withdrew after the American people discontinued support. We also saw this in Rwanda as Danish troops were withdrawn after their soldiers were killed. At times this change in support may not even occur based on the situation on the ground. Again in Somalia we

saw an operation that spanned two vastly different U.S. Presidents and therefore two different strategies for the operations. This change in strategies from each altered the UN response itself.

Once the response force is established you still have the interoperability issues inherent with coalition forces. Some member states refuse to place their soldiers under the unified command structure of the United Nations. This of course causes a serious division of command that can be detrimental to an operation, especially if one side is conducting operations without communicating effectively with the other side. We observed the consequences of interoperability issues during the Somalia Operation, during which the United States was carrying out their own mission without informing the UN soldiers in the area. Even under the same command structure, training and equipment issues could cause serious consequences when coalition forces do attempt to carry out their missions in close proximity to each other. We have observed numerous friendly fire incidents during coalition operations in Iraq and Afghanistan.

Even when troops can be amassed, have similar training, and do agree to work under the same command structure, they are often asked to carry out tasks that fall outside of their scope of training or abilities. We saw in the Namibian operation the need for the diversity of personnel required for an effective intervention. The utilization of law enforcement experts in order to oversee the newly established local law enforcement system and the utilization of election experts to monitor election results are both examples of the necessity for specialization. With the difficulties surrounding the UN's ability to gather support in general, it is very difficult to specify what that support is. Often this requires soldiers to carry out missions that they are not prepared for. Soldiers

are offensive actors trained for combat operations and can have a difficult time transitioning to the necessity for defensive tactics and restraint. In Somalia soldiers were charged with the distribution of humanitarian aid. At times these combat soldiers will be presented with a mission so far outside their scope that the necessary mission will not be completed at all. There were hundreds of complaints against both sides of the Namibian civil conflict. The military forces in country maintained no mechanism to investigate these claims as their assigned mission was to enforce peace not conduct investigations into violations of this peace.

When presented with a problem it is beneficial to present a potential solution. Could the United Nations incorporate the use of Private Security Companies to correct some of the above mentioned discrepancies? One of the primary deficiencies covered above is the UN's serious lack of flexibility to the inevitable reality of an ever changing and dynamic mission. PSCs however are only hampered by the availability of qualified personnel to hire. In the wake of the Afghanistan and Iraq operations, we can observe the rapid expansion of forces by PSC's in response to the need. The number of private security force contractors at the height of the conflict in Afghanistan was around thirty seven thousand contracted persons.³³⁰ This confirms the free markets basic fundamental principle of supply and demand. If there is a necessity for personnel and the funding is sufficient to adequately compensate them for their efforts, then the supply exists. Instead of being tied to the ideological, geostrategic or political obligations of their member

³³⁰ Loveline, George C, 2014. Outsourcing the Global War on Terrorism: Private Military Security Companies and American Intervention in Iraq and Afghanistan. Palgrave Macmillan, New York, NY 2014.Pg. 8

states, the UN would be able to provide personnel based on the demand of the operation. This would lead to much greater flexibility when the mission changes. They also would not be tied to the constraints of who the member states were supplying. If security forces were required they could contract out for this specific task. If police style operations were required they could accommodate this by changing the tasking to incorporate this into their requirements. Also the incorporation of PMSC's would alleviate the interoperability of forces issues as these requirements could be delineated within the specifications of the contract. Chain of command would also no longer be an issue as the contract ultimately answers to the United Nations.

What this would not solve however is the inability of the UN to garner support via funding for the use of PSC's. This could be solved however by not tying the resources to any specific operation but rather require all member states to equally contribute to a peacekeeping fund, allocating funding prior to an intervention. This would be a proactive approach rather than a reactive approach that could save lives while negating the need for a geo strategic interest in order to garner support. Of course equal contributions would not necessarily be equal as many countries like the United States and most of Europe could afford more than many of the other members. A potential solution would be to tie the amount to a percentage of a country's Gross Domestic Product (GDP). This would make richer states pay more while the poorer member states would contribute less. With the bureaucratic structure of the UN this is probably not feasible at all as wealthy nations would have little incentive in being proactive and some countries would probably veto any attempt to pre-emptively provide the UN with funding that would allow them to create their own military force. What this would however offer to these more power

nations is the ability to separate the association of intervention with each nation's pursuit of their own personal goals. This would also disassociate the intervention from their political capital. Government leaders would no longer be sending soldiers, who were either volunteers to defend their country, or conscripts into military service, into other states. Instead the United Nations would be hiring personnel from many countries to carry out an assignment. We see this today with humanitarian NGO's like the Red Cross today.

The question of feasibility is viable for this topic in general and the truth is that, under the current conditions, the deployment of PSCs by the United Nations would not be a viable option. Regardless of whether or not PSCs would be able to fill the gaps in UN response there are two glaring deficiencies that would not make their incorporation an option. The first was highlighted in the third chapter of this paper and the second is the negative stigma associated with these groups. In order to utilize PSCs they would be required to be viewed as legitimate entities. The current lack of regulation and oversight for these organizations leaves them unaccountable for violations of international law or social norms. The implementation of an international governing body like that of ICAO would increase their legitimacy in the eyes of the international community.

Similar to oversight and accountability it is also important for the UN to establish standards to govern PSCs similar to the standards created by ICAO for aviation. These standards should include minimal training topics and requirements, licensing and oversight for training programs to ensure that the PSCs maintain a standard for the personnel that they hire. Similar to the minimum standards established by the WPS program at the State Department one overarching standard protocol would ensure that the

personnel hired and deployed have a minimum level of efficiency. This could include more than just tactics and policy training but also cultural sensitivity training for the varying regions to which PSCs would be deployed. The increase and establishment of international training standards would go a long way towards establishing the legitimacy of PSCs in the world market.

Most State leaders would be hesitant to give up control on their position of influence within the United Nations structure. For many, the thought of the UN having an operational military force would require the member states to surrender their control over this entity. This however is not necessary at all. The member states and the Security Council specifically would need to maintain control over the initial deployment of PMSC's and would still have control over the allocation of funds once deployed. What would be removed from the power of the member states is the operational control during the intervention itself to include the ability to undermine the response by pulling their support. This would solve the inherent problem of a lack of continued support seen within the case studies.

The last hurdle for the utilization of PSCs by the UN is that of stigma. Society does have a tendency to portray PSCs as shadow military organizations designed to conduct clandestine and illegal operations outside of societal norms. Truth is this portrayal under the current system is justifiable based on the examples that were observed during the course of this paper. PSCs have acted as if they were not accountable to anyone because the truth is they currently are not. For this reason the stigma associated with these organizations will need to be broken. The only way to break them is via time and future adherence to societal norms. The key to implementing this is via some form of

international regulatory body that can hold them accountable and thereby change the public perception.

To answer the questions posited in this paper there needs to be continued research into the numerous successes and failures of UN peacekeeping operations and peace building operations in order to increase the effectiveness of these operations. Globalization, transnational crimes and climate change are three examples of overlapping societal issues that can no longer be addressed within the borders of a sovereign nation but rather requires cooperation and understanding amongst nations. One point does appear clear, that the UN does maintain a variety of discrepancies within its response operations. These discrepancies could be corrected by the implementation of PSCs that would account for several of the observed shortfalls however under the current situation this is not feasible due to a lack of regulation, accountability and the stigma that the PSCs have created for themselves. This does not mean however that they should be discounted completely as a potential option for the future. Rather more research should be conducted on creating an international accountability structure that would bring legitimacy to PSCs. The truth is that PSCs are currently being utilized throughout the world to protect assets, conduct operations and enforce peace, even by the UN themselves. However without accountability these organizations can only continue to try to regulate themselves. This will not solve the problem of the negative stigma with PSC's or solve the necessity for an international intervening body that can respond to humanitarian crisis throughout the world.

VI. Works Cited:

- Abrahamsen, Rita and Michael C. Williams. 2011. Security privatization and global security assemblages. *Brown Journal of World Affairs* 18 (1) (Fall): 171-80.
- Apuzzo, Matt. "Blackwater Guards Found Guilty in 2007 Iraq Killings" *New York Times*, October 22, 2014. Accessed April 26, 2014 from <http://www.nytimes.com/2014/10/23/us/blackwater-verdict.html>
- Associated Press. *New Charges in Blackwater Shootings*. October 18, 2015. www.foxnews.com (accessed November 5, 2013).
- Avant, Deborah. *The Market for Force*. Cambridge: Cambridge University Press, 2005.
- Avant, Deborah, and Lee Sigelman. 2010. Private security and democracy: Lessons from the US in Iraq. *Security Studies* 19 (2) (Apr): 230-65.
- Badmus, Isiaka Alani, and 'Dele Ogunmola. 2009. Towards rebuilding a failed state: The United Nations intervention in the post-civil war Sierra Leone. *Journal of Alternative Perspectives in the Social Sciences* 1: 720.
- Bah, Abu Bakarr. 2013. The contours of new humanitarianism: War and peacebuilding in Sierra Leone. *Africa Today* 60: 2-26.
- Barnett, Michael N. "The UN Security Council, indifference, and genocide in Rwanda." *Cultural Anthropology* 12, no. 4 (1997): 551-578.
- Bayo, Ogunrotifa Ayodeji. 2012. The factors behind successes and failures of United Nations peacekeeping missions: A case of the democratic republic of Congo. *Journal of Alternative Perspectives in the Social Sciences* 3: 914-32.
- Beaumont, Peter. *The Guardian*. November 24, 2002. www.theguardian.com (accessed November 8, 2013).
- Berdal, Mats, and David H. Ucko. "The United Nations and the Use of Force: Between Promise and Peril." *Journal of Strategic Studies* 37, no. 5 (2014): 665-673.
- Berridge, Geoffrey R. "Diplomacy and the Angola/Namibia accords." *International Affairs (Royal Institute of International Affairs 1944-)* (1989): 463-479.
- Bertram, Eva. "Reinventing Governments the Promise and Perils of United Nations Peace Building." *Journal of Conflict Resolution* 39, no. 3 (1995): 387-418.
- Bina, Mark. "Private Military Contractor Liability and Accountability After Abu Ghraib." *The John Marshall Law Review*, 2004-2005: 1237-1263.

- Bolton, John R. 1994. Wrong turn in Somalia. *Foreign Aff.* 73: 56.
- Boutros-Ghali, Boutros. *An Agenda for Peace: Preventive Diplomacy, Peacemaking, and Peace-Keeping: Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992*. Vol. 1247. UN, 1992.
- Brattberg, Erik. 2012. Revisiting UN peacekeeping in Rwanda and Sierra Leone. *Peace Review* 24: 156-62.
- Briand, Stephane. *Private Military and Security Companies-Counterinsurgency and Nation Building Strategy*. Marine Corps Command and Staff College, Quantico VA, 2013.
- Brooks, Doug, and Fiona Mangan. 2011. The modern use of contractors in peace and stability operations. *Brown Journal of World Affairs* 18 (1) (Fall): 181-94.
- Call, Charles T., and Elizabeth M. Cousens. "Ending wars and building peace: International responses to War-Torn Societies1." *International studies perspectives* 9, no. 1 (2008): 1-21.
- Clark, Ian. *Legitimacy in International Society*. Oxford New York: Oxford University Press, 2005.
- Clarke, Walter, and Jeffrey Herbst. 1996. Somalia and the future of humanitarian intervention. *Foreign Aff.* 75: 70.
- Coalition Provisional Authority. "www.usace.army.mil." *US Army Corp of Engineers*. June 26, 2003.
http://www.usace.army.mil/Portals/2/docs/COALITION_PROVISIONAL.pdf (accessed November 5, 2013).
- Cockayne, James. "Regulating Private Military and Security Companies: The Content, Negotiation, Weaknesses and Promises of the Montreux Document." *Journal of Conflict and Security Law, Vol 13 No.3*, 2009: 401-428.
- Coito, Joel Christopher. 2013. Pirates vs. private security: Commercial shipping, the Montreux document, and the battle for the Gulf of Aden. *California Law Review* 101 (1) (02): 173-226.
- Dale, Richard. "The UN and African Decolonization: UNTAG in Namibia." In *Transafrica Forum*, vol. 8, no. 3, pp. 31-48. 1991.
- Dallaire, R. A., and Bruce Poulin. *UNAMIR: Mission to Rwanda*. National Defense University, Washington DC Center for Counter-proliferation Research 1995.

- Diehl, Paul F., and Sonia R. Jurado. "United nations election supervision in South Africa: Lessons from the Namibian peacekeeping experience." *Studies in Conflict & Terrorism* 16, no. 1 (1993): 61-74.
- Doug Brooks (2000) Messiahs or mercenaries? The future of international private military services, *International Peacekeeping*, 7:4,129-144
- Douglas, Ian. "Fighting for diamonds—Private military companies in Sierra Leone." *Peace, profit or Plunder* (1999): 184-185.
- Doyle Michael, *Legal questions loom in Blackwater Convictions*. McClatchy Washington Bureau October 23, 2014. Retrieved April 26, 2015 from <http://www.mcclatchydc.com/2014/10/23/244495/legal-questions-loom-in-blackwater.html>
- Doyle, Michael W., and Nicholas Sambanis. 2000. International peacebuilding: A theoretical and quantitative analysis. *American Political Science Review*: 779-801.
- Elesa, Jennifer, and Kennon and Swartz, Moshe Nakamura. *Private Security Contractors in Iraq: Background, Legal Status, and other issues*. CRS Report for Congress, Congressional Research Service, 2008.
- Fasulo, Linda M. 2009. *An insider's guide to the UN*, Yale University Press.
- Feil, Scott. "Building better foundations: Security in post conflict reconstruction." *Washington Quarterly* 25, no. 4 (2002): 97-109.
- Fortna, Virginia Page, and Lise Morjé Howard. "Pitfalls and Prospects in the Peacekeeping Literature*." *Annu. Rev. Polit. Sci.* 11 (2008): 283-301.
- Fortna, Virginia Page. 2004. Does peacekeeping keep peace? International intervention and the duration of peace after civil war. *International Studies Quarterly* 48: 269-92.
- . 2003. Inside and out: Peacekeeping and the duration of peace after civil and interstate wars. *International Studies Review* 5 (Winter2003): 97-114.
- Fukuyama, Francis. "Nation-building 101." *The Atlantic Monthly* 293, no. 1 (2004): 159-162.
- Gerson, Allan. "Peace building: The private sector's role." *American Journal of International Law* (2001): 102-119.
- Gilligan, Michael J., Ernest J. Sergenti, Steven Callander, Robert Urbatsch, Alessandra Casella, Thomas Palfrey, and Raymond Riezman. 2008. Do UN interventions cause

- peace? Using matching to improve causal inference. *Quarterly Journal of Political Science* 3: 89-122.
- Gomez-Del Prado, Jose. 2011. Impact on human rights of a new non-state actor: Private military and security companies. *Brown Journal of World Affairs* 18 (1) (Fall): 151-69.
- Guttal, Shalmali. "The politics of post-war/post-conflict reconstruction." *Development* 48, no. 3 (2005): 73-81.
- Henckaerts, Jean Marie and Doswald-Beck, Louise. *Customary International Humanitarian Law Volume I: Rules*. New York: Cambridge University Press, 2005.
- Hoeffler, Anke. "Can international interventions secure the peace?." *International Area Studies Review* 17, no. 1 (2014): 75-94.
- Howe, Herbert M. "Private security forces and African stability: the case of Executive Outcomes." *The Journal of Modern African Studies* 36, no. 02 (1998): 307-331.
- Kumar, Krishna. *Rebuilding societies after civil war: critical roles for international assistance*. Lynne Rienner Publishers Inc., 1997.
- ICoC. "The International Code of Conduct for Private Security Service Providers Singnatory Companies." August 1, 2013. www.icic-psp.org (accessed November 8, 2013).
- International Civil Aviation Organization. *International Civil Aviation Organization- A United Nations Specialized Agency*. www.icao.int (accessed December 8, 2013).
- International Commitee of the Red Cross. *International Code of Conduct for Private Security Service Providers*. Code of Conduct, International Commitee of the Red Cross, 2010.
- International Stability Operations Association. "ISOA Code of Conduct." Code of Conduct, 2011.
- Isima, Jeffrey. 2009. The global marketplace and the privatization of security. *IDS Bulletin* 40 (2) (03): 113-20.
- Kierpaul, Ian. "The Mad Scramble of Congress, Lawyers and Law Students after Abu Ghraib: The Rush to Bring Private Military Contractors to Justice." *University of Toledo Law Review*, 2008: 407 -442
- Lipson, Michael. 2007. Peacekeeping: Organized hypocrisy? *European Journal of International Relations* 13: 5-34.

- Loveline, George C, 2014. *Outsourcing the Global War on Terrorism: Private Military Security Companies and American Intervention in Iraq and Afghanistan*. Palgrave Macmillan, New York, NY 2014.
- Maffai, Margaret. "Accountability for Private Military and Security Company Employees That Engage in Sex Trafficking and Related Abuses While under Contract with the United States Overseas." *Wisconsin International Law Journal*, 2008: 1095-1139.
- Malan, Mark, Phenyio Rakate, and Angela McIntyre. *Peacekeeping in Sierra Leone: UNAMSIL hits the home straight*. Vol. 68. Pretoria: Institute for Security Studies, 2002.
- Matheson, Michael J. "United Nations governance of postconflict societies." *American Journal of International Law* (2001): 76-85.
- Mays, Terry M. 2012. The development and role of peacekeeping operations in security platform police missions in West Africa. *Police Practice and Research* 13: 167-83.
- Newbury, Catharine. "Background to genocide: Rwanda." *Issue: A journal of opinion* (1995): 12-17.
- Paris, Roland. *At war's end: building peace after civil conflict*. Cambridge University Press, 2004.
- Pech, Khareen. "Executive Outcomes—A corporate conquest." *op. cit* (1999): 81-110.
- Percy, Sarah. *Regulating the Private Security Industry*. New York, NY: Routledge, 2006.
- Raymond, Laura. "Abu Gharaib Torture Survivors Fight on Against Military Contractors." *Center for Constitutional Rights*. November 2013. www.ccrjustice.org (accessed November 9, 2013).
- Rocha Menocal, Alina. "State Building for Peace: a new paradigm for international engagement in post-conflict fragile states?." *Third World Quarterly* 32, no. 10 (2011): 1715-1736.
- Sambanis, Nicholas, and Michael W. Doyle. 2007. No easy choices: Estimating the effects of United Nations peacekeeping (response to King and Zeng). *International Studies Quarterly* 51: 217-26.
- Scorgie, Lindsay. "Rwanda's Arusha Accords: A Missed Opportunity." *Undercurrent* 1, no. 1 (2004): 67-76.
- Sripati, Vijayashri. "The United Nation's Role in Post-Conflict Constitution-Making Processes: TWAIL Insights." *International Community Law Review* 10, no. 4 (2008): 411-420.

- Swiss Federal Department of Foreign Affairs. *Montreux Document*. Legal Report, Berne, Switzerland: Directorate of International Law, 2007.
- Thakur, Ramesh. 1994. From peacekeeping to peace enforcement: The UN operation in Somalia. *Journal of Modern African Studies*: 387-410.
- Tharoor, Shashi. 1995. Should UN peacekeeping go 'back to basics'? *Survival* 37: 52-64.
- United Nations Department of Public Information. 2000. *Basic facts about the united nations*, United Nations Publications.
- United Nations Department of Safety and Security. *Guidelines on the use of Armed Security Services from Private Security Companies*, 8 November, 2012. United Nations Security Management System.
- United Nations General Assembly. "International Convention against the Recruitment, Use, Financing and Training of Mercenaries." *UN.org*. December 4, 1989. www.un.org (accessed November 8, 2013).
- United Nations, *Security Council Resolution 733*, 23 January 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/733>
- United Nations, *Security Council Resolution 751*, 24 April 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/751>
- United Nations, *Security Council Resolution 767*, 24 July 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/767>
- United Nations, *Security Council Resolution 775*, 28 August 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/775>
- United Nations, *Security Council Resolution 794*, 3 December 1992, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/794>
- United Nations, *Security Council Resolution 814*, 26 March 1993, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/814>
- United Nations, *Security Council Resolution 837*, 6 June 1993, retrieved April 2, 2014 from <http://unscr.com/en/resolutions/837>
- United Nations, *Security Council Resolution 1132*, 8 October 1997, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1132>
- United Nations, *Security Council Resolution 1181*, 13 July 1998, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1181>

- United Nations, *Security Council Resolution 1270*, 22 October 1999, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1270>
- United Nations, *Security Council Resolution 1346*, 30 March 2001, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1346>
- United Nations, *Security Council Resolution 1492*, 18 July 2003, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1492>
- United Nations, *Security Council Resolution 1829*, 4 August 2008, retrieved April 25, 2014 from <http://unscr.com/en/resolutions/1829>
- United Nations, *Sierra Leone-UNOMSIL-Background*, retrieved April 25, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unomsil/UnomsilB.htm>
- United Nations, *Somalia-UNOSOM I-Background*, retrieved April 2, 2014 from <http://www.un.org/en/peacekeeping/missions/past/unosom1backgr2.html>
- United Nations *UN Peacekeeping Operations* www.un.org. December 31, 2013. <http://www.un.org/en/peacekeeping/resources/statistics/factsheet.shtml> (accessed February 9, 2014).
- United Nations. *United Nations Peacekeeping Operations*, 2015, retrieved February 28, 2015 from <http://www.un.org/en/peacekeeping/operations/current.shtml>
- United States of America v Paul Alvin Slough*. 10-3006 (United States Court of Appeals District of Columbia, April 22, 2011).
- U.S. Department of Justice. "Five Blackwater Employees Indicted on Manslaughter and Weapons Charge for Fatal Nisur Square Shooting in Iraq." *Department of Justice*. December 2008. <http://www.justice.gov> (accessed November 5, 2013).
- US Department of State. "State Department to Incorporate International Code of Conduct into Worldwide Protective Services Contracts." *State.gov*. August 16, 2013. www.state.gov (accessed November 8, 2013).
- U.S. House, Committee on Oversight and Government Reform, Memorandum; *Additional Information about Blackwater USA*, October 1, 2007
- Williams, Paul. "Fighting for freetown: British military intervention in Sierra Leone." *Contemporary Security Policy* 22, no. 3 (2001): 140-168.
- Zagor, Adam and Bennet, Brian. "Iraq limits Blackwaters Operations." *Time*, 2007.
- 106th Congress. *Military Extraterritorial Jurisdiction*. Public Law, 106th Congress, 2000.

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EDUCATION

M.A., Global Security Studies (2015), Johns Hopkins University

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HONORS

- STRAYER UNIVERSITY – Magna Cum Laude 2011
- US ARMY – Army Commendation Medal, Army Achievement Medal, Good Conduct Medal, National Defense Medal.

WORK EXPERIENCE

- PHYSICAL SECURITY SPECIALIST- US Department of State, 2014- Present
 - Develop, implement and ensure compliance with security policies, standards, plans, methods and procedures that govern the use of uniform security officers to protect personnel, information and facilities at Department buildings throughout the U.S. including passport offices.
- DIPLOMATIC SECURITY UNIFORMED DIVISION- Inter-Con Security Systems Inc. 2003-2014
 - Manage and direct nearly 500 armed security personnel encompassing a diverse workforce to include their use of alarm monitoring systems, CCTV systems, x-ray machines and magnetometers. Conduct physical security risk assessments of critical facilities housing senior Department personnel, COOP installations, and SCIF locations. Developed and revised emergency action plans, integrate security measures and initiatives to include security responses, evacuation procedures, and recovery and restoration issues to ensure compliance with all contract regulations between the Uniformed Protective Division and the Department of State.
- US ARMY- 1998-2002
 - United States Army Infantry Squad Leader: Responsible for a twelve person squad and provided soldiers with instruction, counsel, and training. Coordinated and conducted joint service ceremonial operations in the DC area.