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Toward the end of the 20th century scholarly opinion converged on the notion that democracy is a key factor shaping the behavior of states, both at home and abroad. At home, scholars argued that more inclusive electoral processes and greater flows of information led democracies to invest in public goods such as education, health, and social security at higher rates than non-democracies (Przeworski et al. 2000; Lake and Baum 2001). Abroad, some asserted, norms that favor non-violent solutions and institutions that afford citizens meaningful opportunities for participation make it harder for leaders “to guide the ship of state into war” (Vasquez 2005). So widely accepted were these ideas that the “democratic peace” was taken as a “law” in political science and a guideline for action in the policy community (Doyle 1983; Levy 1989, Snyder 2004).

A widely held, albeit often implicit, assumption in theory and research on the importance of democracy for international behavior is that states rely on militaries drawn from their citizenry rather than “hired guns” to project force.¹ Over the last two decades, however, a robust market for force has emerged with commercial firms delivering a wide array of military and security services alongside and intertwined with state military forces (Singer 2003; Avant 2005). Thus, the assumption that states mobilize forces of their citizens through military organizations no longer holds true. This raises the question of whether the attributes that have been identified as endemic to democracies remain strong when states rely on private forces instead of, or in addition to, public ones. If greater reliance on the market to exercise force sidesteps or undermines democratic practices, then this trend has implications for democracy at home and abroad.

¹ This assumption is prominent in international relations theorizing in general but is particularly so in the literature on the international behavior of democracies. It is explicit in Kant (1983) and Giddens (1987).
Notwithstanding disagreement over exactly how democracy shapes the behavior of states, there is consensus that democracies share particular core features – transparency, constitutionalism, and public consent, which contribute to both contestation and participation (Dahl 1971, Lipson 2003, Krebs 2009). After describing the development of the contemporary market for force, we distill from prior analyses expectations about the ways in which strategies for mobilizing force are related to these features of democracy. Focusing on the contemporary US, we compare the impacts of using private forces and traditional military instruments on transparency, constitutionalism, and public consent. Our evidence indicates that the shift to market-supplied security has lowered transparency and impeded constitutionalism. Its impact on public consent, though more complex, indicates the necessity of transparency for effective public consent. We conclude with a consideration of the potential implications of these changes for US foreign policy.

The 21st Century Market for Force

A global market for military and security services blossomed in the 1990s (Singer 2001/02; Singer 2003; Avant 2005). Private military and security companies (hereafter PMSCs) registered in many different countries began providing military and security services to an array of international actors, including states, international organizations, nongovernmental organizations, and global corporations. These companies offer a wide range of services. Peter Singer groups firms according to which services they provide: operational support (Military Provider firms), military advice and training (Military

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2 There is a debate over how to characterize these forces. Some distinguish between private military companies (PMCs) and private security companies (PSCs). This distinction is hard to maintain in practice given the large gray area of services that fit uneasily in one or the other category and the many companies that provide services on both sides of the military/security divide. Others come up with new acronyms altogether such as privatized military forces (PMFs), use PMC or PSC to refer to the entire range of services, or use the less defined term -- contractor. To avoid confusion, it is increasingly common to refer to these companies as private military and security companies (PMSC) so we adopt this term to refer to companies that, under contract, perform services that might otherwise be provided by military forces.
Training Firms), and logistical support (Military Support firms) (Singer 2003). However, many firms also provide a variety of policing services, such as site security (armed and unarmed), crime prevention, and police training, and intelligence gathering (Avant 2005). Some PMSCs provide the whole range of military and policing services and some specialize in only a few. All can morph quickly to meet consumer demands given the ease of hiring different people to staff their contracts.

The scope and capacities of this market have become abundantly clear during the ongoing hostilities in Iraq and Afghanistan. When the US defeated the Iraqi Army in 2003, more than one out of every ten personnel deployed to the theater were civilians employed by PMSCs performing functions formerly handled by soldiers. As US forces were stretched thin by the chaos that followed the fall of Saddam Hussein, an “army” of private personnel surged into the country to train the Iraqi police force, the Iraqi army, and a private Iraqi force to guard government facilities and oil fields, and to protect expatriates working in the country (Avant 2005). Retired military or police from countries as varied as Fiji, Israel, Nepal, South Africa, El Salvador, the United Kingdom, and the US, employed by a multitude of PMSCs, worked for the US or British governments, the Coalition Provisional Authority (CPA) and then the fledgling Iraqi government, private firms, and international non-governmental organizations in Iraq.

A 2008 Congressional Budget Office Report found the number of contractors working for the US in Iraq in 2007 to be at least 190,000 – greater than the number of US troops – and explained that the ratio of contractors to troops was at least 2.5 times higher in Iraq than it had been during any other major US conflict (CBO 2008). The number of US contractors in Iraq gradually declined to approximately 120,000 as of June 30 2009. As the Obama administration shifted its focus to Afghanistan, however, the number of contractors there grew to approximately 74,000, more than the number of US troops in that country. The total number of contractors in Iraq and Afghanistan in 2009 hovered around 240-245,000. (CWC 2009, OSD/ACQ 2009)

How to think about these personnel relative to US military forces is complicated. We use the same categorization as the Commission on Wartime Contracting (CWC), established by Congress in 2008
– differentiating among logistics, security, and reconstruction services (CWC 2009). Almost all of the tasks in each of these categories were commonly performed by US military personnel in the recent past. The issues and concerns raised by relying on private personnel for each are quite different, as we discuss briefly below. The personnel in all of these categories, however, have provided services so critical to the US efforts in Iraq and Afghanistan that the US could not have gone to war without them. So the implications of each are relevant for mobilization and democracy.

Logistics services include supply of food, laundry, and fuel and construction of temporary base facilities. The US Army’s logistics civil augmentation contract (LOGCAP) was held by Kellogg, Brown and Root (KBR) in the early years of the Iraq and Afghanistan conflicts. In June 2007 the new LOGCAP contract (LOGCAP IV) was awarded to three companies: DynCorp International LLC, Fluor Intercontinental Inc, and KBR. In Iraq alone, the LOGCAP contract paid out $22 billion between 2003 and 2007 (CBO 2008). Though not generally associated with deadly force, logistics services are fundamental to the ability of the military to operate. When KBR had trouble fielding the requisite personnel at the beginning of the Iraqi conflict, troops went without fresh food.3 When KBR transport drivers were kidnapped or killed, troops did not have fuel. Without these personnel the US military simply cannot perform wartime tasks. Furthermore, once they are deployed in a hostile environment, they require protection by either the military or private security forces.

Those providing security services (guarding people, buildings, and convoys) perform tasks most similar to those seen as fundamental to the military. Many are armed (the CBO estimated that 30-35,000 of the contractors working in Iraq in 2008 were armed) and in carrying out their duties routinely shoot and are shot at (CBO 2008). Blackwater (now Xe) employees have received the most notoriety for their work providing security in Iraq. Four Blackwater employees were killed and mutilated in March 2004 while escorting a convoy through Fallujah. Under contract to the CPA and the US State Department in Iraq,

3 General Charles S. Mahan Jr., then the Army's top logistics officer, was referenced complaining of troops going without adequate support due to problems deploying contractors in a draft of what became Fontenot et al. 2004. In the final version of the document, however, the discussion of the difficulty with logistics did not mention contractors. General Mahan’s complaints were also reported by Bianco and Forest 2003 and Wood 2003.
Blackwater personnel carried weapons, had their own helicopters, and fought off insurgents in ways hard to distinguish from military actions (Priest 2004). Although security contractors played a fundamental role for the US in Iraq as the insurgency heated up, the use of force by these personnel also generated controversy (Fainaru 2008). Blackwater also stands out for the behavior of its personnel in the September 2007 shooting in a Baghdad square. Their lethal capacity makes security forces difficult to distinguish from military forces. They pose the greatest risk to people around them and their misbehavior could have devastating impact on the long run goals of the US. Ironically, however, the tasks they undertake are sometimes less crucial to military operations than logistics – unless, of course, they are providing security for troops or logistics personnel.

Reconstruction, stabilization, and development contractors provide a wide range of services, from building infrastructure (roads, communication, water, and power) to building institutions (training government employees including military, police, and justice personnel at the national, provincial and local levels, supporting civil society groups, promoting rule of law and democratization, and so on). A wide range of PMSCs, along with other contractors, have delivered these services. DynCorp has trained Iraqi police, constructed police and prison facilities and built capacity for a justice system. Vinnell and MPRI both provided training for the new Iraqi Army early in the conflict. Parsons has worked on many large infrastructure projects and myriad others have delivered various other capacity-building services. Like logistics forces, these personnel require someone to provide security for them in hostile environments. In today’s world reconstruction tasks are often more crucial for accomplishing the goals of the war effort than either logistics or security services, as they lay the conditions for stability and thus an exit strategy. To be successful, it is imperative that reconstruction tasks be undertaken in a coordinated way so that police reform and justice reform complement one another, for instance, and civilian leaders understand the military they are supposed to oversee. Thus, these contractors deliver services that are among the most crucial for US goals and must not only worry about the quality of their services but also how well their efforts coordinate with other contractors and the US military. And yet these jobs are less
important to the functioning of military units than logistics personnel and pose less deadly risk than security personnel.

For our purposes, the most relevant features of these forces are that they are both crucial to the US war effort and deliver services that used to be provided by the US military itself. If the US could not mobilize these services through the market, it would either have to mobilize them through the military or reassess its decision to go to war. For these reasons, all of these forces are relevant to our question about how market-based mobilization affects the democratic quality of US foreign policy.

Democracy, Mobilization and the Use of Force

Despite widespread accord that democracy matters, there is disagreement over how it matters. Democracy is said to empower the mass public by expanding participation and contestation – who gets a say in government and what choices they are offered (Dahl 1971; Welzel 2008, Krebs 2009). At home, when more people participate and have meaningful choices, their rights as citizens, including access to information and accountability levers, are expected to deliver more public goods (Przeworski et al 2000; Lake and Baum 2001). Who counts as citizens, what their rights are, and how to judge a government’s accountability to them, though, are subjects for debate – as are the kinds of public goods democracy actually supplies (Arblaster 2002; Held 2006; Ross 2006). Scholars also debate how democracy matters abroad. Some realists still hold that it does not matter at all – or matters only as a hurdle to effective policy (Layne 1994, Desch 2002). Among those who argue that democracy matters, some claim that democracies are more restrained in the use of force overall (Benoit 1996). Others maintain that democracies are more restrained only in their behavior toward one another – they do not fight each another (Doyle 1983, Russett 1993). Even those who agree that democracies do not fight each another

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4 Those who argue that democratic processes act as hurdles should be interested in the changes we describe even though they may come to different normative conclusions about their importance.
argue about whether liberal norms or institutional processes are responsible for this outcome. Finally, another line of argument is that democracies are more effective at fighting those wars in which they do engage (Lake 1992, Reiter and Stam 1998).

Despite these disagreements, there is general consensus that established or effective democracies share particular institutional features – most prominently: transparency, constitutionalism and public consent. Transparency allows citizens, other government officials, and societal groups access to information about policy and is crucial for a citizenry to be aware of the choices it has and capable of informed judgments about them (Dahl 1971, Henderson 2006). Constitutionalism defines and limits the power of government, ensuring a range of policy inputs and predictable processes subject to contestation (Held 2006; Doyle 1983; Lipson 2003). Public consent refers to what Dahl calls “institutions for making government policies depend on votes and other expressions of preference” (Dahl 1971). These institutions include elections, of course, but also public opinion, public debate, rallies and protests to ensure that leaders either convince the public of the necessity of using force or abide by public worries about its costs: in lives, financial resources, or opportunities (Kant 1983; Henderson 2006).

Many analyses of democracy’s impact abroad focus on demonstrating differences in the international behavior of “democracies” and “non-democracies.” They define and measure which states are democracies (often via a composite score on these general features) and then look for a connection between how “democratic” a state is and particular policy outcomes. These analyses are answered by critics who contest either the scoring of democracy in particular countries or the interpretation of the

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5 See Maoz and Russett 1993. For a focus on liberal norms, see Doyle 1983. For a focus on institutions see Bueno de Mesquita et al., 2003; Leeds 1999; Lipson, 2003.

behavior of “democracies.” Both sides of the debate tend to treat democracy rather crudely as a fixed variable that either has effects on policy outcomes or does not.

Democratic theorists, though, tend to think about democracy as a continuous process rather than a fixed attribute. States do not simply pass a democracy threshold and suddenly produce more democratic policies. States are more democratic to the extent that they maximize participation and contestation (Dahl 1971, Krebs 2009). More transparency, more attention to constitutionalism, and greater public involvement should lead to more democratic policy. Similarly, states do not go on autopilot once democratic processes have been established. These processes can be corrupted, leaders can usurp power, and citizens can be inattentive and unengaged; under such circumstances, we should expect policy results to be less likely to serve the public interest, whether at home or abroad. Although some argue that democratic institutions offer avenues for correcting non-democratic impulses, these do not guarantee democratic policy outcomes (Owen 1994, Krebs forthcoming). Few democratic theorists would dispute that a state is more democratic to the degree that its leaders and citizens remain true to practices that enhance participation and contestation and less democratic to the degree that they stray from these.

Thinking of democracy as a process opens avenues for examining more fine-grained incremental and even issue-specific changes in practice that should have effects on policy. In sum, “democracies” can vary in their “democraticness” – over time or issue.

In granting that the democraticness of practices varies within states, we accept some arguments critical of the democratic peace (particularly Farber and Gowa 1995, Oren 1995). Contrary to the conclusions of these critics, though, we do not believe that variability in democratic practices should lead to the conclusion that democracy does not matter. The democraticness of practices at a particular point in time or on a particular issue should matter a good deal for policy. But the degree of democracy in a state is not fixed in time or space. It requires the exercise of democratic practices. A variety of features or institutions may increase or decrease the likelihood of transparency, constitutionalism, and public consent

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at particular times or on particular issues. The degree to which members of a state follow these practices, in turn, should affect the quality of policy.

We examine mobilization policy as such an institution; potentially important for the transparency, constitutionalism, and public consent surrounding policy on the use of force abroad. We first consider how mobilization should be expected to affect the practices identified as key to democracy based on theory and logic alone. Second, we examine the actual impact of the use of private security on these processes in the US. Finally, we take up the more controversial issue of how the changes engendered by private security should affect US behavior abroad.

Military Mobilization and Democratic Practices

The idea that citizenship is – and should be – connected with military service underlies both liberal and republican theories of democracy. There are different arguments about the ideal form of military service and the way it should affect democracy. The range of mobilization policies recommended for democracies, though, is fairly narrow and generally focuses on conscripts or volunteers. Without exception, mercenary forces or hired guns are looked upon with great suspicion.

Machiavelli made an early and strong claim about the importance of a conscript army for a republic and the peril associated with mercenaries.8 “One’s own troops are those composed of either subjects or of citizens or of one’s own dependents; all others are mercenaries or auxiliaries” (Machiavelli 1950: 53). Mercenaries, he claimed, are dangerous because of their reluctance to fight, and auxiliaries (troops from a different state) are even more dangerous because they owe allegiance to another. Only national forces can be counted on, and a truly national force is one that sees itself fighting for its own good and glory – not for the ambition of another (Machiavelli 1950: 226). Machiavelli saw war as both natural and the most essential activity of political life and thus saw mobilization policy as key to the essence of a state (Paret 1986: 24). “Although I have elsewhere maintained that the foundation of states

8 For arguments that Machiavelli’s writings reflect a commitment to a republican form of democracy, see Pocock 1975; McCormick 2001.
is a good military organization, yet it seems to me not superfluous to report here that without such a military organization there can neither be good laws nor anything else good” (Machiavelli 1950: 503). Machiavelli’s writings suggest that mobilizing via conscription can reinforce both good leadership and good citizenship. Because a national force of conscripts is most effective when it is well treated by the state and is pursuing the public interest rather than a ruler’s private ambition, leaders should be encouraged to treat their citizens well and pursue the national interest in order to be effective in war. Conscription should also induce citizen commitment to the state and public life (Burk 2002: 5). By encouraging both leaders and citizens to focus on their responsibilities to the common good, mobilization based on conscription was seen by Machiavelli as a key foundation for good military organization and good laws.

Building on Enlightenment notions about reason and the social contract and reflecting more liberal principles, Kant also saw military service as fundamental to republican (democratic) government.9 He argued, though, that any manpower system should be voluntary. A militia-based, voluntary military manpower system was most appropriate for a republic. Contrary to Machiavelli, Kant did not see war as natural or essential. By involving citizens in decisions about war, republics based on freedom, law, and equality could exercise greater caution and sometimes avoid the calamities of war. His essay on the Perpetual or Eternal Peace built the logic through which such republics could build a liberal peace among themselves. He worried that standing armies – even standing armies of conscripts – would precipitate fear and offensive action and thus should eventually be banished (Kant 1949: 432). In his words, “to pay men to kill or to be killed seems to entail using them as mere machines and tools in the hand of another (the state), and this is hardly compatible with the rights of mankind in our own person. But the periodic

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9 Kant, of course, showed disdain for pure majoritarian democracies in favor of republics which guaranteed individual rights and freedoms through a separation of executive and legislative powers. His notion of republican government, though, is similar to our conception of democracy today.
and voluntary military exercises of citizens who thereby secure themselves and their country against foreign aggression are entirely different” (Kant 1949: 432).

Tocqueville also based his logic on liberal principles but worried that “men living in democratic times seldom choose military service” and thus claimed that democracies would have to resort to conscription out of necessity alone. He argued, though, that universal service conscription was not only necessary but desirable for democracies. Because it appeals to and imposes the same burdens on the entire political community, it distributes obligations fairly and links government policy most closely to the political community as a whole (Tocqueville 1945: 228). Furthermore, such a system does the most to infuse civilian values – the habits of the nation and public opinion – into the forces of a democracy.\(^\text{10}\) If the pacifying effects of a democratic government on foreign policy are connected with popular participation in bearing the cost of war, conscription should both pacify foreign policy and ensure a force ready for emergencies in ways that voluntary service would not.

In practice, the requirements of freedom that liberalism implies have posed tension with ideas of equity and duty in the relation between citizenship and military service (Cohen 1985). Free will, inalienable individual rights, and the ability of citizens to check the state imply a suspicion of duty or government-imposed equity. Though the tension has periodically led to fierce debates about mobilization policy within democratic states, the idea of a citizen-based army is a key feature of participation in governance. It suggests a blend of citizens’ duties to the state with a liberal commitment to free choice, willing deference to political entities and the state’s duties to abide by citizen wishes (Rousseau 1978). Debates over mobilization thus mask the general agreement that a democratic state entails a military of committed, effective citizens subject to the control of civilian leaders who are, in turn, subject to the will of the population.

\(^{10}\) Even though he agreed with Machiavelli on the preferred mode of mobilization, his reasoning reflects a very different logic. Machiavelli saw military service as instilling a public spirit in the populace, while Tocqueville saw the same service as ensuring that the military would reflect civilian culture.
Both the citizen’s relationship to the state and the relationship between citizenship and military service have been closely associated with arguments about the rise of the state, and particularly the democratic state (Andreski 1954, Cohen 1985, Giddens 1987, Tilly 1990, Mann 1993). Military mobilization strategies based on the citizenry have been said to play an important role in both limiting the power of democratic states vis-à-vis their citizens and enhancing their power vis-à-vis one another by strengthening public responsibility and patriotism (Giddens 1987, Burk 2002). According to Andreski, the higher the military participation ratio, the more democratic the regime (Andreski 1954). Giddens claims that the connection between the nation state and democracy “implies acceptance of the obligations of military service” (Giddens 1987:253).

Underlying the above arguments are logical ways in which a connection between citizens and military service could also be expected to generate support for particular democratic practices, particularly participation but also contestation. In a democratic structure of government, where compulsion and rights go together, a system of obligatory service directly involves citizens in foreign policy. The fact that citizens are required to give up their time, if not their lives, in service to the country’s goals should increase the stake of citizens in those goals, enhancing participation. It should ensure that citizens show an active interest in the policies of their government – including the rules by which they are conscripted. The impact of government policies on citizens’ lives should also prompt legislators to demand and play an active role in foreign policy in order to better serve their constituents, thereby enhancing both participation and contestation. An actively interested public and legislature should increase the demand for – and supply of – transparency on foreign policy. Transparency, in turn, allows for more effective participation and contestation.

By, in a sense, forcing interest in foreign policy, conscription should make it most likely that citizens play the role required to ensure the health of the democracy. If democratic foreign policy

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11 As Margaret Levi (1997) has demonstrated, citizens are more likely to comply with conscription policies that are seen as fair.
outcomes require a particular level of engagement by the citizenry to uphold democratic practices, obligatory service helps generate that level of engagement (Henderson 2006). One could argue that a voluntary structure of service – where only a segment of the population is linked to the most extreme costs of foreign policy (and a segment that has volunteered) – should enhance choice and liberty but at the cost of participation. It should chip away at demands by legislative institutions for a check on policy and by citizens for transparency, and it should make securing public consent to use force easier. Eliot Cohen’s argument that small wars “require” professional volunteer armies rather than armies based on conscription is partly based on this logic.

A movement away from a citizen-based army toward a market-based system should undercut this support altogether. If military “service:” is really just a job, if forces can quit at any time, and if combatants need not be citizens at all, then the public demand for information relevant to forces and the legislative interest in their safety should be further weakened. All things being equal, public consent for

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12 None of this suggests that conscription causes democracy. There are many examples of non-democracies with conscription. But among states committed to democracy, obligatory military service should strengthen the incentives for the government to attend to the demands of its citizenry in decisions about whether to use force.

13 Cohen claims that small, peripheral wars, which are not crucial to a country’s survival, incite greater domestic protest when they are met with a conscript army. In the experience of Great Britain and the United States, he says, “an unfettered press and a powerful and independent legislature have publicized and criticized the prosecution of far flung military commitments.”(Cohen 1985: 87) This, along with the constraints of public opinion led both countries to be more effective with professional armies than conscript armies in this kind of wars. Cohen suggests that the US in the Philippines was more successful given that its force of volunteers in that war “precluded some of the violent domestic protest that accompanied the Vietnam War by avoiding any kind of conscription.”(Cohen 1985: 97) Though Cohen’s larger point is critical of democratic processes and his suggestion is that the imperatives of small wars require avoiding them by using professional forces – the logic of his argument supports the claim that conscript armies are more sensitive to democratic processes. Whether a volunteer army in fact leads to less critique in today’s world is subject to debate. In Somalia, coverage of volunteers dying led to a significant critique of US policy.
actions abroad that use hired forces should be easier to obtain. A market-based system for mobilizing forces should remove one source of public participation and institutional concern about the use of force abroad, which in turn should reduce the demand for input and information about foreign policy plans—and thus remove this support for democratic practices. This is not to imply that democratic checks on foreign policy fall away if a state relies on market-based mobilization. Citizens and legislators should still be concerned with a variety of financial, reputational, and other costs of using force. But erasing the link between citizenship and military service should undercut an important pillar of support for democratic practices.

These potential consequences of greater reliance on private forces seem plausible and are consistent with academic, policy, and popular arguments (Avant 2006, Mandel 2002, Singer 2003, Silverstein 2000, Stanger and Williams 2006). To date, however, little systematic evidence has been marshaled to assess whether they are actually operative. In what follows, we elaborate on how this logic should work in the current US context and then use a variety of measures to assess how the US’s use of PMSCs has affected these processes in Iraq and Afghanistan.

**Market Forces and Democracy in the US: 1995-2006**

*Transparency*

Transparency in states is defined as “legal, political and institutional structures that make information about the internal characteristics of a government and society available to actors both inside and outside of the domestic political system” (Finel and Lord 1999, p. 316). Because it allows informed action on the part of both citizens and other institutions of government, transparency is fundamental to democratic practice. Most analyses of transparency use very general measures to track the degree of transparency in a government overall. Because we are interested in whether the process surrounding the use of contractors is less transparent than the use of troops within the United States, however, these all-

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purpose measures of the US government’s transparency are not useful. In ascertaining general levels of
transparency analysts examine common indices: lack of governmental control over information,
institutions for governmental disclosure of information, and evidence of free debate (Finel and Lord
1999). Drawing on these, we begin by comparing the degree to which Congress, interested citizens, and
foreign governments can obtain information about the mobilization and activities of troops versus private
security companies. To carry the analysis further, we offer a measure of the relative amount of
information in the public sphere about troops versus contractors by contrasting newspaper coverage of US
troops and private security companies over time in Iraq.

To begin, we consider the amount of governmental control over information about troops versus
contractors. Although the US government restricts information about troop movements and plans for
obvious reasons, it does not restrict information about who is deployed, where, with what unit. Nor does
it restrict information about the overall number of US forces in Iraq and Afghanistan, the number of
casualties, or spending on both wars. When a US military employee is accused of a crime, that
information is available as well. A wealth of information is available on the Pentagon’s website and even
more to analysts and reporters who cover the American military. Even in highly sensitive policy arenas,
the US has procedures such as the Freedom of Information Act (FOIA) that guarantee public access to
information deemed relevant to the public interest.

The situation for contractors in Iraq is quite different. Not all of this is a matter of restriction. In
many areas, the government simply does not (or did not) collect data on contractors, so information about
which private security personnel are deployed, where, and in what ways is (or was) de facto not available.
Until quite recently, neither did the government collect information about the overall number of contract

15 http://www.defenselink.mil/.
employees, the number of casualties, or how much it spends on contracts (GAO 2007). That information is now collected, though it is not as available as information about troops.  

The strongest evidence of formal government restriction of information comes from FOIA denials or blockages. Because PMSCs are private, their assertions of control over proprietary information about the terms of their contracts, their operations, and their policies have reduced public access to information. By law, commercially sensitive information must be concealed when government documents are released. Thus, the Pentagon often sends documents to individual firms so they can block out sensitive information before it is released. Sometimes this process has been abused. For instance, when journalists sought access to information about Halliburton subsidiary Kellogg, Brown and Root’s work to repair oil fields in Iraq, significant portions of a Pentagon audit sent to the international monitoring board were blacked out. The firm claimed that it was permissible to black out not only proprietary information but also statements “that we believe are factually incorrect or misleading and could be used by a competitor to damage KBR’s ability to win and negotiate new work” (Eckholm 2005). Even when they are not abused, proprietary limits on information can reduce the transparency of government policy. The government, in concert with private security companies, has successfully restricted the release of a wide variety of information.  

Many different institutions and more informal mechanisms release information about military forces. The Department of Defense, along with each service branch, has formal organizations to feed information to the press.  

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16 The Department of Defense is now required to keep regular census numbers of contract employees in Iraq but that information is not publicized. See DoDI number 3020.41 (3 October 2005).

17 The Los Angeles Times requested access to the data on reports of violent incidents by contractors but received only a heavily redacted version of the data that omitted the names of the security team members as well as the names of armed forces members and government employees. The newspaper filed suit in November 2005 but was unable to get access to the information (Savage 2006). This is only one of many similar stories.

knowledge about them. Informal mechanisms include triggers that alert the media as well as pathways through information can be accessed. Television networks and major newspapers assign correspondents to the Pentagon and local television stations and newspapers routinely cover military bases and the families that are attached to them within their circulation area. Military casualty figures are routinely collected and released. The names and faces of military casualties in Iraq are shown nightly on “The News Hour with Jim Lehrer.” Coverage of military deployments is virtually automatic.

There is no such coordinated or automatic diffusion of information about contractors, nor are there triggers to alert the media. Casualty figures routinely collected and released by the military exclude contract personnel, thus reducing information about the human costs of war. If reporters want access to the newest census data on the number of contractors in Iraq, they must submit a FOIA request. Furthermore, PMSCs attract no coverage on a regular basis. Although the irresistible attraction of bad news draws media coverage if something goes wrong, it is hard for the media even to discover that something has gone wrong if they are not covering these deployments in the first place. Partly because of information blockages, even when PMSCs are known to be involved in an operation, investigators may find it difficult to ferret out information about them.\(^\text{19}\) Contracts also come in many shapes and sizes, giving them a degree of flexibility that is often deemed a virtue. For instance, CACI’s contract through which interrogators at Abu Ghraib prison were hired was with the Interior Department’s National Business Center (Tiron 2005). That virtue, however, increases the burden on anyone trying to piece together a picture of what is involved.

Even when information on private security firms is potentially available, it is more diffuse and harder to collect, aggregate, and analyze than parallel military information. For instance, in 2004 as analysts were decrying the lack of information about CACI’s provision of interrogators at Abu Ghraib

\(^{19}\) Author conversations with Steve Farenau (Washington Post), T. Christian Miller (Los Angeles Times), Renae Mearle (Washington Post).
prison, CACI itself was advertising on its website for interrogators to serve in Iraq.\textsuperscript{20} The information was not so much secret as it was hard to amass. When information is hard to gather, transparency is obviously reduced.

These considerations imply that PMSCs working for the government abroad should be less likely to generate the same degree of media coverage as troops would. To gain a better perspective on this difference, we consider newspaper coverage of PMSCs versus troops in Iraq.\textsuperscript{21} Figure 1 shows the month-by-month number of articles in the \textit{New York Times}, January 2003 through March 2007, in which either the military or PMSCs were mentioned.

Coverage of the military in the \textit{Times} dwarfed that of PMSCs. The only times when private security personnel amounted to more than a blip on the media’s radar screen were when sensational events occurred that involved PMSC employees. During the second quarter of 2004, just after four contract employees of Blackwater, USA were killed and mutilated in Fallujah, PMSCs were mentioned in an all-time high of 95 articles. In the following two months, coverage of PMSCs continued to be relatively high, due to allegations that contractors from CACI and Titan were involved in the abuse of prisoners at Abu Ghraib. Even during that period, coverage of troops far outstripped that of PMSC. More generally, under “normal” circumstances PMSCs were conspicuously absent from reporting on the Iraq conflict. Although coverage of PMSCs did increase after the Democrats gained control of the House and Senate, giving them an institutional base for the first time since the war started, it was still far outstripped by increases in the coverage of troops. Thus the minimal coverage of PMSCs continued.

\textsuperscript{20} http://www.caci.com/webapp/Apps/JobSurvey.aspx

\textsuperscript{21} These data was amassed by running Lexis-Nexis searches and then reading each article to ensure its coverage of military, private security, or both. We then created archives of the text of all articles counted.
To ensure that some peculiar coverage pattern in the *New York Times* was not skewing our analysis, we also tracked coverage over a similar period in the *Saint Louis Post-Dispatch*.

[Figure 2 about here.]

As Figure 2 demonstrates, the overall amount of news coverage on Iraq in the *Post-Dispatch* was lower than in the *Times*, which styles itself as America’s “newspaper of record.” The ratio of coverage of PMSCs to the military was still very low. Although they did receive better coverage compared with troops in the *Post-Dispatch* – roughly 1/27 as opposed to 1/47 in the *Times* – the numbers still demonstrate an overwhelming lack of coverage for contractors in Iraq.

These differences do not stem from the lesser number of PMSC personnel than military personnel in Iraq. Although that may have been true in the early days of the war, there have been nearly equal numbers of contractors and military personnel since the US government began keeping count of the numbers of deployed contractor personnel (Merle 2006, GAO 2008, CBO 2008). One could also claim that contractors are doing less high-risk work, but even without keeping track of contractor casualties we know that death claims filed for contractors have been roughly one-third of US military deaths. Since the insurgency began, the work performed by contractors has not been different enough in scope from the work performed by the US military to account for the observed differences in news coverage.

Finally, one could claim that the military gets more coverage because military leaders make the strategic and policy decisions and these are the concerns worthy of coverage by the media. It is true that decisions about military operations are made by military leaders and are of significant consequence. However, some policies central to the success of the war – such as initial efforts to train the Iraqi army – were made by (or with significant input from) contractors. When more than half of the recruits in the first

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22 Given that many who work for the US government are third country nationals who may have difficulty filing these claims, most agree that the number of actual contractor deaths is undercounted. See Schooner 2008.
session quit before they left training camp, resulting in a significant delay in the development of key institutions in Iraq, Vinnell (along with subcontractors MPRI, SAIC and several smaller firms) was blamed (Avant 2005: 124-5). Contractors were in charge of developing the curriculum, which was said to be confusing and to place inordinate emphasis on classroom training while neglecting basic combat skills as well as discipline, which was said to be too loose. The specific criticism of contractors in this case suggests a good amount of influence over important policy. So while contractors may have less to say about strategy at the very highest levels, they do control or influence important policy. Furthermore, most media coverage is not about major policy choices. It is about attacks, casualties, soldiers and their lives, the level of US commitment, and how the war is going. We suspect that such coverage cues thoughts about the war and the level of US commitment and sacrifice. Because it refers only to one half of the personnel the US has mobilized, though, and counts only the casualties in the military, it underplays both the level of commitment and the level of sacrifice (Schooner 2008).

The volume of news coverage is only one measure of information available to the public. Researchers could also track talk about troops and contractors in the blogosphere, on television news and on the radio. Tracing newspaper coverage is a reasonable place to start, however, given that we have had no measures of that information up until now. The volume of newspaper coverage tells a compelling story, consistent with our other indicators about the degree to which the use of private security has reduced transparency.

Less extensive media coverage, more diffuse information, and the proprietary blockage of information involving PMSCs have an obvious potential to reduce transparency surrounding the use of PMSCs relative to that of traditional military forces. The amount of information available to the public and other institutions of government – either due to lack of government restrictions or institutions that promote the spread of information – is crucial to free debate. The absence of such debate on the deployment of contractors to Iraq as the insurgency heated up in 2004 is telling, particularly when contrasted with the fierce debate surrounding the deployment of an additional 20,000 troops in early 2007. Note also that the debate over whether to bring “our troops” home from Iraq has not addressed
what the US will do with the equal numbers of contractors. Similarly, suggestions that the US might shift military personnel in Afghanistan to “trigger pulling” roles have not mentioned that this will effectively be an increase of US forces – but of contractors rather than troops (Barnes 2009).

In sum, the US government has more restrictions on information available about private security contracts than about the deployment of troops. There are also many more formal and informal mechanisms for sharing information about military forces than about contractors. There is evidence of far lower actual newspaper coverage of private security forces relative to troops and evidence of less public debate over the deployment of contractors relative to the deployment of troops. All of this leads us to conclude that privatizing military services has indeed reduced transparency over US policy in Iraq and Afghanistan.

**Constitutionalism**

In the US, congressional and judicial checks help make outcomes predictable and reduce the potential for capricious action. Privatization could affect constitutionalism by evading these key veto points in the policymaking process. For example, the use of contractors rather than military personnel could enable members of the executive branch to pursue policy without going through normal channels – evading checks from Congress or even from other portions of the executive branch; or leaders in the executive branch could encourage contracts between private security companies and foreign governments or other entities and thereby avoid formal government involvement altogether – what has been called “foreign policy by proxy” (Silverstein 1997). If contracting force rather than mobilizing military forces bypasses veto points, it erodes constitutionalism. To begin an assessment of the impact of privatization on constitutionalism, we consider how contracting with PMSCs or allowing PMSCs to contract directly with foreign governments or other entities has affected the relative power of the executive, legislative, and judicial branches and the associated number of veto points in the policy process.

Even without contracting, the executive branch enjoys significant advantages over Congress in military policy decision making (Koh 1990; Lindsay 1994). Contracting enhances these advantages. The executive branch, not Congress, hires contractors. Although Congress approves the military budget, it
does not approve – or often even know about – individual decisions for contracts. Information about contracts is held, and oversight of contracts is conducted, almost exclusively by the executive branch. The traditional deference of the Supreme Court to the President on matters of war powers, combined with the nebulous legal framework surrounding contractors, makes it unlikely that this imbalance will be rectified by the judiciary.23

Although the executive branch dominates military information and oversight, especially in the short term, Congress has several avenues of influence over the long-term manner in which the military does its business, as well as over short-term funds for the military and deployment of US troops (Hammond 1961, Huntington 1961, Avant 1994, Brandon 2003; Michaels 2005). Congressional authority over personnel ranges from limiting the size of the military to regulating and restricting how soldiers can be deployed, structuring chains of command, and approving promotions (Michaels 2005, Avant 1994, Lindsay 1994). Congressional appropriations also frequently carry restrictions on the use of the funds that regulate the use of military forces. Among the most important tools at Congress’ disposal is its ability to structure incentives within the services – requirements for entry, criteria for promotion, and so on (Moe 1990). Finally, as a consequence of the War Powers Resolution, the President must consult Congress and seek its approval to deploy US military forces in conflict zones (Michaels 2005, Auerswald and Cowhey 1997). Congress may not be able to veto a presidential decision to deploy forces, but it can and does use tools at its disposal to exact political costs from the president if they do not agree with him. The politics surrounding the “surge,” which deployed an additional 20,000 troops to Iraq in 2007, demonstrate how these tools work.

Transparency is fundamental to Congress’s ability to practice its constitutional role. Congressional avenues for influence over the military are enhanced by access to information about military units. Congress has the information to keep track of how many military units there are, and how,

23 Koh 1990; Lindsay 1994. Even scholars who see a greater role for the court in foreign policy overall still agree that it is likely to defer to the executive on issues surrounding war powers. See King and Meernik 1999.
where, and when they are deployed. It has devised procedures for receiving information about the military and it uses these to influence the military on a short-term as well as long-term basis. Congress, however, has much less access to information over contractors. In Iraq Congress was shocked to learn the extent of contractor duties in the wake of the incident in which Blackwater employees were killed and mutilated in Falluja (Skelton 2004, Schlesinger 2004). This should not be surprising, though, because many reports to Congress focus on the job at hand, not who is doing the job. The annual consolidated report on military assistance and sales, for instance, does not even identify whether particular training missions are accomplished by troops or PMSCs (Lumpe 2002). As the experience in Iraq has demonstrated, it has also been hard for Congress to gain access to contracts due to the proprietary concerns of the contractor.24 Congress is far from even understanding how these contracts work and through which agencies. Contracts for security services (such as interrogation) have been routed through the federal bureaucracy (via the Interior or Commerce Department, for instance) in ways that mask their military impact.25 This has made it difficult for the legislative branch to affect either the internal processes of private firms or the terms on which the executive branch contracts with them.26

Some congressional tools have been harder to use to control contractors than the military. Congress retains its power of the purse but has not been able to use that power to structure the internal working of private security firms – who gets promoted, blanket requirements for particular jobs, punishments for wrong-doing, and so on, as it has the workings of the military branches. This is in part because access to information is more difficult. Other congressional controls are skirted altogether by contracting. Congress controls the size of the military but does not control the size of the contract force

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24 Congress has complained in its legislation. See H.R. 4102 (2007), Section 2, paragraph 6.

25 Prison interrogators at Abu Ghraib were hired through a Department of Interior contract. See Fay and Jones 2004; Schooner 2005.

26 This is a common feature of contracting in general. See Donahue 1989; Guttman and Willner 1976.
In Iraq the executive has used contractors to evade congressional restrictions. First consider the response to the insurgency in Iraq. In 2004, as the insurgency grew, the Bush administration deployed a vast number of contractors as personal security details, site security guards and military and police trainers to bolster US efforts. Official reports of the number of contractors in Iraq went from 20,000 in May 2004 to 190,000 in January 2008.\(^{28}\) Even if we take into account that there were likely many more contractors than the initial estimate in 2004, the increase in the number deployed was likely between 130,000 and 170,000. Those deployed after 2004 performed a wide range of tasks, including responding to insurgent attacks with stepped-up site security and personal security details, continued logistics support, and increased support for reconstruction activities, including training for the Iraqi military and police.

This increase caused no scandal, uproar, or even notice in the United States even though this was the very time when members of Congress were furiously trying to figure out the role of contractors

\(^{27}\) Michaels (2006: 1054) cites Swain v United States, 28 Ct. Cl. 173, 221 (1893) “Congress many increase the Army, or reduce the Army, or abolish it altogether…”

\(^{28}\) It is likely that there were more than 20,000 in Iraq in May 2004. The 20,000 number was estimated by Donald Rumsfeld in discussion paper responding to a congressional inquiry (Rumsfeld 2004). Those following private security matters at the time were dubious about that figure. Analyst estimates ranged from 40,000 to 60,000 though one former member of the CPA claimed that no one really knew how many private security personnel were in the country. (Author interview March 2004.) Even assuming the 60,000 figure was correct in May 2004 there was a surge that more than doubled the number of contractors in response to the insurgency.
following the publicity that surrounded the deaths of four Blackwater personnel in Fallujah and the role of contractors in the Abu Ghraib prison abuse scandal. Because no congressional authorization was needed, the President could vastly increase the numbers of private personnel deployed to Iraq with no political discussion. Had the President sought to mobilize 130,000-170,000 additional military personnel, he would have run into the need for congressional authorization and political costs. This is a highly plausible counterfactual, given the controversy and debate that surrounded President Bush’s request for an additional 20,000 troops in early 2007.

The executive branch has also allowed direct contracts between foreign governments and PMSCs to evade congressional meddling in politically fraught policy.\(^{29}\) For instance, in 1994 the US licensed MPRI to provide advice and training to the Croatian government. President Tudjman thereby received many of the advantages of US military assistance— indeed, he touted the contract as evidence of an “alliance” between the US and Croatia – but the contract flew under Congress’ radar screen (Avant 2005). Had the US opted to send military trainers to Croatia in 1994, that decision could not have fallen outside congressional scrutiny, and given the tense politics surrounding the Balkan crisis, it likely would have likely sparked intense debate (Avant 1996/97).

In response to particular incidents in Iraq and Afghanistan, Congress has begun to use its appropriations powers to demand more information and has taken small steps toward greater control. Most significantly, it has required the Department of Defense to develop tools for tracking the number of contractors employed in areas where the US military is involved in war or contingency operations.\(^{30}\)

\(^{29}\) As specified in the International Transfer of Arms Regulations (ITAR) of the Arms Control Export Act, contracts for the export of military services must be licensed by the State Department’s Office of Defense Trade Controls. Whereas many executive offices have input into this process, though, the Act does not even stipulate that Congress is to be notified unless the contract exceeds $50 million. http://www.pmdtc.org/reference.htm#ITAR

\(^{30}\) See Department of Defense Instruction (DoDI) Number 3020.41 (3 October 2005), Section 4.5. and 6.2.6. The Synchronized Pre-deployment Operation Tracker (SPOT) database now implements this requirement. Although problems remain (see GAO 2008, GAO 2009), this is a vast improvement on the early years of the wars.
Congress also amended language in both the Military Extraterritorial Jurisdiction Act (MEJA) and the Uniform Code of Military Justice in an attempt to extend the jurisdiction of US law over persons serving with or accompanying armed forces in the field.\textsuperscript{31} A variety of other legislation has been proposed that reacts in one way or another to the controversies raised by the use of contractors in Iraq and Afghanistan.\textsuperscript{32} The 2009 Senate Defense Authorization Bill initially had provisions that would bar particular jobs such as armed security and interrogation from being contracted out on the grounds that these are inherently governmental – though these were ultimately removed. It did require that a contractor misconduct database be kept to inform decisions about hiring.\textsuperscript{33}

The degree of control this legislation offers is unclear. As is typical of Congress, legislation often reacts to particular controversies and sometimes does not work as intended. For instance, Congress thought it had “fixed” MEJA to extend criminal jurisdiction of US civilian courts to persons supporting the mission of the Department of Defense overseas regardless of the federal agency under which they were contracted.\textsuperscript{34} It also acted to extend the criminal jurisdiction of military courts under the Uniform


Code of Military Justice to persons serving with or accompanying the force in *contingency operations.*

But, in Senator Carl Levin’s (D-MI) words, “despite the enactment of these provisions and the presence of these provisions on the books, we continue to hear questions raised about the jurisdiction of U.S. military and civilian courts over criminal misconduct by contractor employees on the battlefield in Iraq and Afghanistan.”

The Justice Department did opt to prosecute the Blackwater personnel accused of shooting civilians in Baghdad’s Nisoor Square pursuant to the MEJA despite jurisdictional challenges, which does suggest some progress (Wilbur and DeYoung 2008). Over time, continued congressional attention could lead to increasing control, but this is likely to be a long process.

When Congress attempted to put greater controls on the use of contractors, President George W. Bush pushed back by threatening to veto the 2009 Defense Appropriation Act due to its restrictions on contractors (Castelli 2008). It remains to be seen whether the Supreme Court will allow Congress to use its power of the purse to impose rules backed by criminal punishments to regulate the hiring practices of PMSCs (Michaels 2005). President Obama is on record supporting more transparency surrounding the use of contractors, leading us to expect relatively less executive pushback. However, even if all the legislative initiatives that have been proposed were enacted, the control Congress has over PMSCs would still pale beside the control it has over military forces.

The advantages accorded to the executive branch by contracting are not written in stone. One could look at contracting for services as a military innovation that simply requires a legislative response – similar to the strategy by which Congress gained effective influence over weapons acquisition during the Cold War (Gholz and Sapolsky 1999-2000). Congress could prohibit the use of certain kinds of personnel, restrict the use of contracts for some services, subpoena contracts, require contractors to waive proprietary rights, require information about the use of contractors, and even require congressional

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35 See FY 07 National Defense Authorization Act (S. 552). Thus far the constitutionality of prosecuting civilians under the UCMJ has not been upheld by the Supreme Court. See Reid v. Covert, 345 US 1 (1957).

authorization of the numbers of contractors paid by the United States.\textsuperscript{37} As matters currently stand, however, contracting limits the capacity of Congress to weigh in. We conclude, therefore, that privatizing military services has thus far reduced the veto points through which policy must travel and thereby the impact of constitutionalism on US foreign policy.

\textit{Public Consent}

Contracting could also erode processes through which public consent is offered by reducing public interest in or concern about the use of force by their leaders. Kant argued that citizens of a republic are less war-prone because those with influence over decisions to use force must also bear its costs. Although many have pointed out that this does not preclude the use of force, in democracies the standards for using force are said to be higher than elsewhere; war must be of great importance to warrant spilling the blood of citizens fighting for their country and to subject democratic leaders to political consequences when casualties mount (Mueller 1973, Benoit 1996, Gartner and Segura 1998, Cohen 1984).

How might the use of PMSCs affect public consent? First, because reporting about missions frequently focuses on the number of troops needed or involved, using PMSCs to bolster national deployments could be perceived as lowering costs and making it easier to appeal for support. Secretary of Defense Donald Rumsfeld was adamant that the US war effort in Iraq could be undertaken with a much smaller force than recommended by Secretary of the Army Eric Shinseki (Gordon and Trainer 2006). As the conflict unfolded, however, it became clear that this was possible only because PMSCs employees filled in for a shortage of troops. So PMSCs could make the US’s apparent commitment to a particular effort seem lower than the actual commitment required.

As a conflict unfolds, a key cost that leaders pay is casualties – the human costs of war (Kant 1983, Lipson 2003). Another potential effect of relying on private security forces is to reduce this cost.

\textsuperscript{37} The Gansler Report outlines some options (Gansler et al. 2007). The final report of the Commission on Wartime Contracting is likely to yield others.
One way for this to happen is via lack of transparency. As noted earlier, whereas military casualties are closely tracked and extensively covered in the media, private casualties are not. This does not mean that PMSCs suffer no casualties. As of October 2009, estimates of the number of private security deaths in Iraq and Afghanistan topped 1,688 – as compared with the 5,220 military personnel who had died in those conflicts. It does mean, though, that PMSC casualties go largely unnoticed (Schooner 2008). There is no running count of private security deaths on the network news or on the DoD website. Photos of private security personnel who have died in Iraq are not part of the “honor roll” flashed across the screen at the end of the “News Hour with Jim Lehrer.” Unlike reporting on civilian casualties, which has grown dramatically due to the efforts of organizations like Iraq Body Count, reporting on casualties among PMSCs is largely absent.

The pertinent differences, though, may extend well beyond the gap in information about military versus private security casualties. Deploying personnel who are simply working rather than “serving” could also lower sensitivity to casualties. That is, the general public may care more about the deaths of soldiers, who are serving out a sense of patriotic duty, than of private security operatives, who are motivated by profit. This possibility is widely recognized in policy analyses of private security and is reflected in the expectations of policymakers (Stanger and Williams 2006). Although rally-around-the-flag effects are not well understood (Oneal and Bryan 1995, Hermann, Tetlock, and Visser 1998), studies of how people use inferences to make political judgments suggest ways in which soldiers’ deaths might register somewhat differently in the mass public than contractors’ deaths (Lupia, McCubbins, and Popkin 2000, Kahneman, Slovic, and Tversky 1982). The deaths of soldiers may communicate a message to the public about the importance and legitimacy of a mission – invoking symbols of sacrifice, patriotism, and

38 See Miller 2009. These numbers are estimates based on insurance claims. The Defense Base Act (passed in 1941) requires that personnel working overseas for the US government on a military base or for national security purposes be issued life insurance and other benefits. See http://www.defensebaseact.com/. By requesting information on claims made through Defense Base Act insurance, analysts are able to estimate the human costs paid by private security personnel.
national interest – and about the importance of sticking it out to honor and validate the commitment of those who have fallen. The deaths of private soldiers, though, may be less likely to have the same symbolic potency – indeed, they may elicit different feelings altogether. In addition to the idea that using PMSCs lowers the political costs of conflict, it can also be argued that increasing reliance on PMSCs lessens the importance of maintaining the national honor by following through on involvement in a conflict situation. In that case, the audience costs may be lower with private soldiers than would be the case with regular troops.

To explore these possibilities, we conducted an experiment embedded within a general population survey conducted by Knowledge Networks. Four randomly selected subsamples, each consisting of 200 respondents drawn from a demographically representative sample of the US population, were asked to read a simulated news story. Those in the control group read a story unrelated to the Iraqi conflict that focused on the rapid growth of the federal bureaucracy; those in the second group read a story about the deaths of American soldiers in Iraq; those in the third group read the same story, but with the casualties identified as private security guards rather than soldiers; and those in the fourth group read a story that followed the same script as the one for the third group, but with more background information about the private security industry.

After reading their assigned story, respondents answered a series of questions about their emotional state, whether they supported the decision for the war, whether they thought the war was “worth it,” how they thought the war was going, and whether they thought those who died in it were motivated by patriotic service, doing their job, or material gain. Our aim was to cast light on whether members of the general public view the motivation of regular and private soldiers differently and whether they react differently to their deaths.

39 The survey experiment was made possible by Time-Sharing Experiments in the Social Sciences, whose support we gratefully acknowledge; see www.experimentcentral.org.
Strong differences emerged in the survey respondents’ perceptions of the motivations of soldiers and contractors. Only 8% of those who read about soldiers dying thought these soldiers had been motivated by material gain; 39% said they had been motivated to do their job; and 53% said their motivation had been to serve their country. This distribution of attributions closely matched that recorded by the control group (those who had read an unrelated story). By contrast, 20% of those who had read about contract soldiers dying ascribed their motivation to material gain and only 23% saw it as a matter of serving their country; and as can be seen in Table 1, the likelihood of citing material gain as the contractors’ motivation was greater among respondents for whom we provided background information about PMSCs. In sum, our respondents were more likely to see soldiers as motivated by patriotism than private contract employees, and the more information they had about PMSCs, the more likely they were to see contractors as motivated by material gain.

[Table 1 about here.]

Importantly, though, the distinction that respondents drew between the motivations of soldiers and those of contractors did not carry over to their emotional reactions to the simulated news stories they read. As can be seen in Table 2, substantial differences emerged between those who read about anyone dying and those who read an unrelated article, but emotional reactions were virtually identical irrespective of whether the casualties were identified as soldiers or contractors. In either case, more than nine out of ten of those who had read about the deaths of Americans claimed to feel sad as a result, and approximately three out of four described themselves as angry. The counterpart percentages were significantly lower for the control group; reading about waste in the federal bureaucracy saddened and angered many respondents, but not nearly as many who experienced those emotions after reading about American deaths in Iraq.

[Table 2 about here.]
Nor, as Table 3 indicates, did any major differences emerge in support for US involvement in Iraq or in evaluations of how well the situation there was going between those who read about soldiers dying and those who read about contractors dying. The fact that these assessments were no more positive among those who read about deaths among contractors rather than among soldiers should occasion surprise among those who would expect the use of contractors to decrease political costs because people care less about contractor deaths. In any event, these data provide some tentative experimental support for the idea that casualties among military personnel do not always exact political costs and may sometimes produce rally-around-the-flag effects (Jentleson 1992, Feaver and Gelpi 2004).

[Table 3 about here.]

We also conducted ten in-depth personal interviews with likely voters in Philadelphia, selected with attention to diversity in age, income level, ethnicity, gender, partisan affiliation, and levels of support for the war in Iraq. Each interviewee read one of three stories based on those we had used in the survey experiment described above: about soldiers dying, private soldiers dying, or foreign private soldiers dying. We asked questions similar to those in the survey experiment about the motivations of the soldiers and support for the war in Iraq. We then inquired as to whether their opinion would change if the soldier had a different status.

The interviews confirmed that people understand the motivations of soldiers and private soldiers differently. Soldiers were seen as volunteering for patriotic duty or to protect American interests. Private soldiers were seen as motivated by money. The interviews demonstrated, though, that people saw being motivated by money as a matter of financial need rather than greed. Many who said that private soldiers

40 We employed a consultant who recruited the respondents and then conducted and recorded the interviews (Author was present to observe the process) according to our script. The stories and interview scripts are available from the authors.
and particularly foreign private soldiers – were motivated by money reported feeling sorry for them because they needed money so badly that they would take such dangerous jobs.

The interviews demonstrated little support for the contention that public consent is affected by whether a soldier is serving or contracting and they did not even suggest that the nationality of the soldier mattered. Although one respondent did say “I feel better that private soldiers die – I’d rather see it all privatized” that was not the sentiment expressed by any of the others.41 As put by several of the interviewees, “a death is a death.” Of the four who read the story about private soldiers dying first, three initially said they would feel even worse (sadder) if it had been soldiers who died but changed their mind as they continued to speak. One of those said she would feel both sadder and angrier if it had been foreign private soldiers because “it is pathetic that we are exploiting people from other countries who are struggling so much that this looks like a way to make money.”42 Those who read first about soldiers dying or about foreign soldiers dying all said they would feel no differently if they had read about other deaths. Interviewees’ reaction to the casualties was similar regardless of whether respondents expressed support for the war before they read the stories.

In keeping with our findings on transparency, the interviews suggested that Americans know little about the use of private security in Iraq. Unprompted, nine of the ten interviewees asked something to the effect of “is this true?” They then went on to say they had no idea contractors were being used this way in Iraq and expressed great surprise that non-US citizens were serving under contract with PMSCs.

We entertained the possibility that this surprising absence of difference in empathy for soldiers versus private soldiers was merely a product of the experiment and interview format. If this were true, we might see differences expressed in other forums. Local papers might accord more space, for instance to obituaries about soldiers dying than they do for contractors. To investigate this possibility, we collected pairs of articles – one soldier and one private soldier (generally within a month of each other) – that told

41 Interviewee number 1.
42 Interviewee number 7.
of individual deaths in the *Plain Dealer* (Cleveland, Ohio), the *Saint Louis Post-Dispatch*, the *Denver Post*, and the *Oregonian*. These articles were similar in length, used references to bravery and honor in a comparable way, and even had analogous mentions to service. Overall, they revealed similarly sympathetic portraits of soldiers and private soldiers.

The interviews and obituaries are consistent with the experimental results. The relationship between soldiers in an all-volunteer force (as opposed to hired guns) and public consent appears to be more complicated than standard interpretations suggest. Even though Americans see the motivations of private security personnel as more monetary than patriotic, they feel just as sad about their deaths. An individual death evokes sympathy – and a sense that the government is responsible for it – regardless of the official status of the person who died. Similar to the expansion of public concern about civilian casualties and collateral damage, members of the public appear to be sympathetic to the deaths of private security personnel.

These findings suggest the need to think about the relationship between the public consent and the human cost of war in a broader framework. The vast increase in both reporting and concern about civilian casualties and other collateral damage does not make sense if one assumes that the public worries only about the human costs to its own citizens. Similarly, as the heated debate over the impact of casualties on support for conflict (Gelpi and Mueller 2006) suggests, the relationship between casualties of any kind and general support for wars is rarely simple. The general argument over the impact of casualties on support for war would benefit from a more nuanced analysis with more data about how people process information about casualties.

We found no evidence that the military versus private security status of those in Iraq affects how much the American public cares about the human costs of war. Consistent with our findings about transparency, though, the differing status *does* affect the public’s knowledge of the human costs of war. The public cannot be said to have consented to something that it does not know about. The use of private security forces thus joins the list of tools leaders can use to manipulate or evade public consent. The use
of contractors in Iraq and Afghanistan, through its reduction of transparency, has interrupted some public consent processes in the United States.

**Private Security and Other Tools to Evade Democratic Practice**

Private security is not the only tool or avenue through which the US or other states can evade democratic practices. Leaders can inflate threats to make it easier to go to war. Other tools, such as clandestine organizations, commonly lower transparency, reduce the influence of the legislature, and disrupt public consent. How should we think of private security relative to these other avenues?

A widespread concern in the wake of the 9/11 attacks has been threat inflation. According to some, the combination of a stronger than typical executive with control over intelligence, weak opposition, and fear precipitated by the 9/11 attacks, led the “marketplace of ideas” to fail in the lead-up to the war with Iraq (Kaufmann 2004, see also Snyder and Balentine 1996). Others have suggested it was norms of militarized patriotism (Kramer 2007), the dominance of the conservative frame (Thrall 2007), or effective rhetoric (Krebs and Lobasz 2007) that produced the Bush administration’s capacity to manipulate the level of threat posed by Saddam Hussein’s government or by terrorists more generally. These arguments tie threat inflation to lower levels of political contestation. Lower levels of contestation, in turn, lead to less democratic policy – either at home via lower resistance to the abridgement of civil liberties or abroad via greater propensity to use force.

Other tools have a greater impact on participation. Agencies that avoid transparency, most notably the Central Intelligence Agency (CIA), typically reduce the participation of the citizenry and other governmental institutions. As other analysts have argued, when clandestine organizations evade transparency and constitutionalism, participation declines and so does the democratic quality of foreign policy. “When we come to covert forcible action, the decisions are not taken in the open, subject to the full range of checks and balances and popular participation….Liberal assumptions about open decision-making and popular desires to avoid human and other costs of war do not affect secretive decisions using mostly foreign personnel” (Forsythe 1992, 393-4).
Because “democracies” have used these sorts of tools before, some suggest we should not worry about PMSCs because they are simply more of the same. If we think about democracy as a continuous set of processes, though, adding another tool of this sort should be regarded as a development that could further weaken the democratic character of policy processes. This new tool can also interact with other non-democratic tools. As recent revelations about the CIA’s use of contractors demonstrate, when clandestine organizations and private security interact, the impact of each may be multiplied (Mazzetti 2009). Another example is the combined use of threat inflation (reducing contestation) and PMSCs (reducing participation) in the war on terror.43 The Bush administration’s use of both together led to a more undemocratic outcome than would have been the case with either one or the other. The profitability of PMSCs offers incentives for their executives to foster interest in new work that could encourage future threat inflation – particularly given the promise of lower political costs. Thus, although we concur that thinking about PMSCs alongside other non-democratic institutions for using force makes sense, this should elevate rather than diminish our concern.

**Implications**

The use of private security by the US has had its largest impact on the participatory dimension of democracy. First and foremost, it has weakened transparency. Abridged transparency has been an important element in reducing both constitutionalism and public consent. Partly because Congress has less information about contractors than troops, it has also been less able to control them. Using contractors avoids an important veto point and thus both speeds policy making and limits the number and variety of inputs into the policy process.44 Furthermore, because the use of PMSCs has garnered less attention than the use of troops, this tool has reduced the political costs of using force. PMSCs have provided an additional tool through which decisions to use force can be taken with less public arousal,
public debate, public commitment, or public response. By hiding costs, the use of private security has made it easier to take action that may not otherwise have the public support necessary to sustain it.

The risk one sees from these developments depends, in part, on how one thinks about democracy. In the tradition of Machiavelli, one might expect a more conservative, republican tradition to see the greatest risk in the battlefield performance of PMSCs. Beyond that, private mobilization could be argued to do less to instill civic engagement amongst the populace (Burk 2002) – a concern common among military critics. The private option may also be less likely to constrain a leader from pursuing individual or private interest rather than the public interest. Despite Machiavelli’s admonitions about mercenaries, though, modern day realists have tended to be more accepting of this private market. Eliot Cohen argued that it made good sense for the US to privatize in order to take advantage of capitalist economies and manage a complex world with fewer troops (Cohen 2000). Max Boot claims that mercenaries make sense for the US today given Congress’s unwillingness to increase the size of the US force (Boot 2008). Akin to the trustee model of democracy articulated by Foyle (Foyle 1999), these authors appear to conceptualize leaders as trustees – in office to carry out the national interest and not necessarily the vagaries of public or congressional wishes. If the public does not approve of the result, it can vote the leaders out of office.

Liberal democratic theory tends to see leaders as delegates of the public – in office to carry out public wishes – rather than trustees. Because attending to the public’s wishes is key to the liberal view, public knowledge and involvement as well as the involvement of institutions like Congress that represent the public’s view in different ways are also crucial. Thus reductions in transparency and the consequent interruptions of congressional involvement and public consent are very important and portend less restrained policy along with a greater tendency for policy to represent narrow or particular interests rather than the public interest. Contemporary liberal arguments are somewhat more in line with with the traditional logic and have voiced concern about contracting in Iraq and Afghanistan, raising the potential for adventurous foreign policy, defense budget expansion, and the capacity for the US to renege on its commitments (Silverstein 2000, Markusen 2001, Stanger and Williams 2006). Ironically though, once
within the government, even liberal critics of contracting such as Hillary Clinton and Barak Obama have acceded to the pragmatic necessity of using contractors.

In keeping with our focus on the practice of democracy, how the actual implications unfold will depend on the actions of politicians and citizens. We consider it unlikely that the US’s use of contractors will be greatly reduced. If current practices are maintained, using private security will continue to be a relatively hidden way for the executive to use force abroad. The lack of transparency is not written in stone, however, and sustained efforts by the Congress, the public, and the media could lead to more transparent and constitutional processes to which the public could be said to have consented. Our finding that citizens have similar reactions to the deaths of soldiers and private security personnel once they know about them suggests that if transparency surrounding the level of private security were to increase, the American public would engage more actively in debate about it.

Conclusion

The US’s use of contractors in Iraq and then Afghanistan to double the size of its force led us to inquire about how the use of private forces affects widely recognized features of democracy. Thus far, the use of PMSCs has reduced transparency and constitutionalism in the US. How the use of PMSCs affects public consent is more ambiguous. The public is no less sensitive to the human costs of war when they are borne by contractors, but using private security nevertheless reduces political costs because the public is less likely to know about the private human costs. These findings have important implications for both democracy and foreign policy in the US and suggest the need for additional research into how the privatization of force affects democratic processes in other states as well.  

45 For initial research on this, see Krahmann 2010 forthcoming and Deitelhoff and Geis 2009.
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