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## **Limitations on violence: Private Military & Security Companies in the vanguard of a Pelagian Just War Tradition**

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# Limitations on violence: Private Military & Security Companies in the vanguard of a Pelagian Just War Tradition

**Resit MA Thesis** – Global Conflict in the Modern Era (International Relations)  
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# Abstract

For the majority of its history, the Just War Tradition (JWT) has attempted to limit the occurrence of violence in the violent world it found itself. Today, out of noble causes, the same tradition is becoming more interventionist by incentivizing the market for force in which Private Military and Security Companies have carved out a role for themselves. In this thesis the origin of the normalization of private violence in JWT will be accounted for and how it allows for more violence, rather than limiting it. These so-called PMSCs will be analyzed in two ways. The theological origin of arguments permitting their usage will be accounted for before analyzing the risks that comes with this. The latter part will be the main focus and is done by following the principles laid out by Aquino: 1) legitimate authority, 2) just cause, and 3) right intention. By looking at the state of the art of PMSC ethics, the debates in contemporary JWT will be accused of being disagreements in details, and not concerned with the theological foundations of their convictions. Namely, by accounting for the privatized turn JWT took, I will show how a cosmopolitan politics is causing this relaxing of norms and is at risk of being permissible to increases of violence. This originated in Pelagian theology who argued for the possibility of human perfection through social and moral progress. Kantian liberalism, the modern equivalent of this belief, has prioritized just cause over other principles and moves the JWT away from one of its core functions; namely, limiting the destructiveness of war. The other core function is to limit injustices, which has devolved into the attempt to eradicate all injustices and overturns ethical positions on private violence.



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# 1. Introduction

Since the 1970s, there have been waves of privatization across the globe, including in the military, which has traditionally been viewed as the state's core function. Quite fittingly, the first private military and/or security company (PMSC) opened shop in London in the early 1970s. The end of the Cold War and the war against terror radically altered military conduct and from 2008 to 2014, the US government had a larger number of contractors than regular army personnel in Iraq and Afghanistan, except for 2011 in Afghanistan. Conventionally, a collection of factors is given as a reason for the rapid rise of the market for force, which is estimated to nearly double within the next seven years. These are the global spread of faith in neoliberal economics, post-Cold War defense downsizing, and the increased unwillingness of western democracies to partake in the increasing number of wars since the end of the Cold War. Of course, none of these would have mattered if it were not for the utility, effectiveness and efficiency of the private sector, which stepped in basically every gap it could find and created the market for force (Dunigan, 2014: 510; Meegdenburg, 2015; McFate, 2014: 41-48; Leander, 2006: 43; Singer, 2003: 50-60; Vantage Market Research, 2022).

It is obvious why these monumental changes (or any change for that matter) in military behavior should also be considered from an ethical perspective. The major field for this 'war ethics' is what in the west became the Just War Tradition (JWT). Since Early Modern times the JWT is divided in *ius ad bellum* and *ius in bello* principles, *ad bellum* principles relating to the justification of wars and *in bello* to the justness of conduct and behavior during wars – by and large collective and individual dimensions. The *ad bellum* principles used in this thesis are Aquino's legitimate authority, just cause, and right intention. These three principles are chosen because, as will be explained, they are fundamental in upholding a prudent and skeptical JWT.

The JWT has undergone major changes since St. Augustine started it during the late Roman Empire, but its general objectives have generally stayed the same. Namely, to limit the destructiveness of war and punish wrongdoings (Rengger, 2013: 8-9). These are often in conflict with each other but are both important in coming to an adequate conclusion about the ethical nature of a phenomenon because they raise fundamental questions about order, justice and peace. In that sense, broader developments can be judged normatively as well if they shift the perspective too much towards one direction, which will be the case in this thesis.

Returning topics in the analysis of empirical/historical cases or political issues relating to PMSCs and *ad bellum* principles are: the historical precedents, the state monopoly on violence, accountability and regulations, (democratic) control over force, public/private relations, financial motivations, privatized peacekeeping and human rights, and legality issues (Avant, 2005; Baker & Pattison, 2012; Due-Gundersen, 2016; Eckert, 2016; Fabre, 2012; Krahmann, 2011; Leander, 2006); Machairas, 2014; Pattison, 2008; Pattison, 2014; Peters, 2016; Runzo, 2008; Zabci, 2017). Characteristic to these articles and (edited) books are the internal debates amongst contributors about how to approach the PMSC challenge. Therefore, another direction in the literature is more focused on the theoretical challenge PMSCs pose to *ad bellum* principles and are often part of the beforementioned literature. These are characterized by theoretical debates and relate to whether and how the JWT ought to be updated when dealing with PMSCs. In the analysis the biggest challenges PMSCs pose to *ad bellum* principles will be discussed, with regard to the core function JWT has to limit the destructiveness of violence.

## 1.1 Main question

With these core functions in mind Aquino's three principles will be used to normatively analyze the presence of PMSCs in contemporary conflict zones from the perspective of liberal democratic states, primarily the US. The main question will be: why do PMSCs not uphold ethically from an Augustinian *ad bellum* perspective, despite JWT literature increasingly justifying their usage? This question not only demands an ethical analysis of the PMSC phenomenon but also aims to uncover underlying reason for why an increasing number of ethical contributions argue in their favor. The major reason for this, as will be discussed, is a shift in view on human nature amongst JWT contributors in the past decades that was widely discussed (and settled) between Augustine and Pelagius. Today's Pelagians will be described as Kantian liberals, especially in an IR related perspective.

Therefore, the hypothesis that will be evaluated in support of the main question is that a Pelagian (or liberal) JWT moves the JWT towards an increasingly permissible tradition, contrary to a limiting one. This would hold serious implications to *ad bellum* principles and by analyzing PMSCs from an Augustinian perspective this challenge is accounted for. This will fill a gap in the existing JWT literature on PMSCs that ignores the foundational theological questions that underpins every political question. Moreover, it will fill a gap in JWT literature on PMSCs by

primarily focusing on the decision-maker side, contrary to the employee side. The aim is to provide both consequentialist and deontological arguments against any PMSC activity by analyzing the real-life effects of permitting their use and understanding the theological origins.

## 1.2 Method and structure

This qualitative literature study aims at accounting for the relation between philosophical ideas and their shortcomings in adequately analyzing international PMSC conduct ethically. Specifically, it critically deconstructs favorable arguments for privatized violence in the JWT by highlighting the relation between an increasingly Pelagian view on human nature and the dangers of the abandonment of the norm against private violence (PMSCs). To do so, I will review and synthesize literature on PMSCs with different JWT approaches and theological debates, and also apply an IR approach to account for the, thus far, inadequately discussed reason privatized violence has become normalized in the JWT and what its dangers are. By critiquing this, the naiveté in assuming the morally positive relation between theory and practice is exposed. In that regard, this thesis aims at accounting for the incompatibility of PMSCs and a restrictive JWT.

The authors discussed are picked for being the best or only representative for their side in a debate. JWT literature on specific *ad bellum* principles relating to PMSCs are less common than one might expect, especially when discussed in a theoretical context on Kantian liberalism. Only three *ad bellum* principles are used, because other important principles like proportionality or last resort can be placed under Aquino's three principles due to the importance of legitimate authority. Having an authority, as the representative of a political community, ultimately deciding on war will be shown to be of major importance.

Firstly, a theoretical background chapter describes an Augustinian JWT and its implications for the two core functions of JWT. The second part deals with the Pelagian worldview that Augustine debated and how this would inform just war analysis. Secondly, the literature review will discuss current topics in the JWT related to PMSCs and are mostly divided between the two common approaches, Walzerian and revisionist. This chapter will be related to the analysis by, thirdly, accounting for the reason the literature discussed in the review appears to justify PMSC usage in certain contexts. To come to this relation a brief comparative analysis between Pelagianism and liberal cosmopolitan approaches in JWT will be done. Ultimately, in the main analysis, the dangers



of this relaxation of norms will be dealt with by applying the theoretical insights of the theory and the literature review to international PMSC conduct.

This chapter is divided in three parts, each a Thomist JWT principle, in which PMSC cases are analyzed. This structure is chosen because, as will be explained in the theory chapter, the three principles are foundational to a restrictive JWT. Also, despite this reductionist analysis, the principles' interrelated coherence will be shown as insufficient on their own and it allows for analyzing PMSCs in different perspectives. Returning topics that influences all principles are privatized humanitarianism and plausible deniability, which will be shown to be a major selling point of PMSCs.

The legitimate authority section will deal with the increased pressure on the monopoly on violence. It is not merely challenged as who uses violence, but also who decides on violence. The state monopoly on violence was fervently advocated by Weber who stated that states can only be successful if they persists in keeping this monopoly with the purpose of holding order legitimately (Weber, 1964: 154). The just cause section will deal with privatized humanitarianism. This perceived necessity prioritizes just cause over other *ad bellum* considerations but is prone to increases in violence. JWT literature on the right intention aspect of PMSCs is primarily focused on the employee side, the contractor. However, due to the academic excitement for the new object of analysis the traditional authority-based view on right intention was forgotten. This authority is what made privatization possible in the first place, so primarily focusing on this aspect seems only logical. Due to the apparent novelty of this perspective, I will need several tools for analysis. The first is an IR approach to structurally account for reasons of privatization in a Marxist/class framework. Second, I will continue with the idea of plausible deniability and give an argument in favor of this before criticizing it due to moral hazard.

## 2. Theory

### 2.1 Augustinian JWT

“we should love all, but we are not bound to do good to all.”

– St. Augustine

Augustine's writings are indicative to the trajectory JWT took after he established the tradition. Namely, significant societal changes occurred during his lifetime, and as a result, his earlier

optimism gave way to a more pessimistic outlook. At first, in a Neo-Platonic manner, Augustine held a rationalizing worldview and believed that human society could be organized like the cosmic order that could be known by particular minds. However, the political climate of the late Roman Empire shifted from Theodosius' decision to declare Christianity the state religion to Alaric's barbarian assault on Rome, which stoked fears of imperial breakdown (Markus, 1983: 1-13). Eventually, Augustine developed a minimalist perspective to war that attempted to uphold order, justice, and peace to the greatest extent possible whilst acknowledging human sinfulness and the impossibility of obtaining or comprehending a transcendent good in earthly matters. The importance of this acknowledgment and distrust of reason, or human will, to succeeding theologians in formalizing a just war doctrine held up over time (Johnson, 2018: 26-32), but his initial optimism shows the relation between historical contexts and morality.

It would be anachronistic to refer to Augustine as communitarian because he believed in the eventual replacement of the earthly city with the city of God, but until salvation humanity inevitably suffers from division. This aspect made Augustine consider the most just war a Christian was allowed to wage, which he positioned in opposition to Christian pacifists. He concluded that violence was allowed, provided there was no possible non-violent solution (Johnson, 1987: 51-52, 279). Ultimately, all Augustinian justifications for violence were aimed for defense of the commonwealth. Also his punitive and restorative wars, which are considered offensive wars today, were considered as part of defending the commonwealth; which is the Christian Roman empire and does not encompass all of mankind (Augustine, 1887: 301; Mattox, 2006: 74, 147-148). In that sense, an Augustinian JWT could never justifiably propose war for strategic purposes or the establishment of a city of God on earth; or a Utopian human perfection in secular terms.

Legitimate authority, to Augustine, resided with the Roman empire and the only justified revolt was one against a tyrant that opposed the will of God – even Nero he considered legitimate (Augustine, 2015: 82; Mattox, 2006: 150). This strict hierarchy was supposed to prevent the frequency of private violence, which was ensured by solely allowing the emperor to decide on violence (Johnson, 1987: 68); also in deciding whether there was no viable option left, which relates to another JWT principle of last resort as part of the responsibility of the authority. Nonetheless, fundamental to Augustinian JWT is a skeptical approach to authority. This aligns with his sinful view on human nature and leads him to distrust rulers who envision a collective cause for their country too eagerly. Interestingly, as O'Driscoll mentions, this critical aspect of Augustine is often

ignored in contemporary JWT contributions, which mainly focus on the ruler's responsibility to act like a judge internationally (O'Driscoll, 2007: 485-487).

Augustine deals with the right intention necessity for deciding on war as: "The real evils in war are love of violence [...], revengeful cruelty [...], fierce and implacable enmity, wild resistance, and the lust of power [...] and such like." These intentions are aimed at the authority, which is most legitimate within God, but temporal leaders may also wage war: "It is generally to punish these things [evildoings], when force is required to inflict the punishment, that, in obedience to God or some lawful authority, good men undertake wars" (Augustine, 1887: 301; Langan, 1984: 20-22). Besides already being positioned against a pacifist view on war, this positions JWT halfway the spectrum of pacifism and realism. Mere strategic considerations are not sufficient for a war to be just, on the contrary. The only right intention is to intend violence for a just and lasting peace, which implies, in a sinful and divided world, that enemies are not to be punished too severely because this would create animosity that likely results in revenge.<sup>1</sup>

This last part also describes the *ad bellum* principle of proportionality, which in this sense is part of right intention because the peace should be lasting and not incentivize vengeful resentment, but can also be part of legitimate authority due to the authority being responsible for deciding the severity of violence (Eckert, 2016: 25). Other *ad bellum* principles are also visible in the ones used in this thesis. Namely, the aim for peace is part of right intention; last resort for violence is also an inherent necessity of just cause as described by Augustine; and probability of success is part of legitimate authority because it gives responsibility to the authority's judgement. Therefore, the three principles used are primarily important in this thesis, despite being less popular today as a consistently used cumulative set.

Aquino, generally considered the most prominent scholar of JWT, was the first to deduce these three principles from Augustine's writings into just war principles that could ethically analyze wars. Today, Johnson's historical approach is closely related to Aquino and views JWT from a pre-Grotian and pre-individualized perspective mainly by its formulation of legitimate authority. Johnson (2014), primarily concerned with Grotian state-centrism, upholds a notion of legitimate authority as sovereign authority and argues for a premodern conception in which it is understood "in terms of the moral responsibility of the ruler for the common good of the people governed" (2).

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<sup>1</sup> Versailles as the textbook example of this.

This is in line with Aquino, who, in his *Summa Theologica*. He insisted on wars to be declared by the most legitimate person and never an individual and should be a primarily secular domain. The authority to declare war was to “defend the needy from the sinners” and as Augustine says: “should be in the hands of those who hold supreme authority” (ST II-II, q. 40, a. 1), meaning no higher authority. Aquino emphasized this principle because in his time Europe suffered from power struggles due to the political authority being fractured and decentralized amongst both clergy and nobility of different hierarchical backgrounds. By holding only the highest authority legitimate, the purpose of limiting wars was upheld. For a war to be just it required the right intention, which means that even when the first and second necessities could be met, if the intention is not for the advancement of peace or the general good a war cannot be just (Cox, 2018: 34-35, 40-41; Johnson, 2013: 19, 33; ST II-II, q. 40, a. 1). The third principle, the sovereign’s right intention in using force, should also be aimed at the common good, which is establishing peace. Altogether, Aquino’s three cumulative principles are still relevant to Johnson and aim for order, justice and peace, respectively (Johnson, 2014: 16-17).

## 2.2 A Pelagian JWT?

An oppositional view on human nature, as opposed to Augustine’s view on humanity’s fallen nature and until recently outside of JWT, comes from his contemporary Pelagius. Rengger gives an adequate description of Pelagianism in his book *The Anti-Pelagian Imagination*: by stating that “Pelagius famously denied the doctrine of original sin and argued that human beings were intrinsically good and not condemned by Adam’s sin. As a result, they could, and should, aim for self-reliance and for as much perfection as they could achieve through their own efforts” (Rengger, 2017: 1-4).

Despite his initial excommunication, since the seventeenth century Pelagian thinking has become increasingly dominant in western society. The general implication of Pelagian thought in IR theory of interest to this thesis, characterized by the belief that “we can will the human condition into completion” (Oakeshott, 1995: 20), relates to Kantian liberalism. Kant’s cosmopolitan framework assumes the possibility and reality of political and moral progress, which ultimately will lead to perpetual peace in a *Foedus Pacificum* (Rengger, 2017: 12-15).

The connection between Kantian liberalism and Pelagianism has been accounted for thoroughly by Nelson, who shows the similarity in emphasis on individual freedom in both rationalist

traditions. Also, he argues that the insistence on the possibility of moral perfection, combined with our autonomous capacity to achieve this, relates to a liberal Rousseauian view that evil follows from nurture, not nature. This secular view on Pelagius' denial of original sin influenced liberal IR to differentiate regime types in their path to universal peace, which today is shaped like a western liberal democracy (Nelson, 2019: 4).

Kant was characteristic to a certain 'boom' in compassionate attitudes towards war during the High Enlightenment. Similar to Rousseau, who criticized the legal order of his time, and Montesquieu, who considered the character of republics vis à vis monarchies, Kant argued that the inclination towards peace is an inherent faculty of the constitutional republic, provided they are economically interdependent and engaged in international organizations. Moreover, the idea that those who do the fighting are the ones who decide on force and thereby suffer the consequences must be a safeguard against inconsiderate violence, together with the prohibition of using a credit system to fund foreign policy. This, in contrast with the monarchy, which was predicated on warfighting. In other words, regime type determines the occurrence of war (Begby, et. al, 2012: 321-323; Kant, 1917: 111; Rengger, 2013: Ch. 1-3), and through rational contemplation moral and political progress can be achieved. The Pelagian view of human association and politics reveals itself in the belief of perpetual peace as the human condition willed into completion.

In this thesis, the Pelagian view on human nature, which is the possibility of progress to eradicate injustices, is visible in arguments that facilitate the shift in the JWT's core functions. Namely, the emphasis on order and peace as Aquino's first and third principle that relate to limiting the destructiveness on war, is replaced by justice and its punishment; or in its radical form, the eradication of all injustices. A Pelagian JWT, therefore, adheres to, 1) a cosmopolitan view on human nature; 2) an ethics that prescribes duties to all of humanity; and 3) the belief free will is able to bring about moral progress and an ultimate perfect world. These show themselves in forceable regime-changes and global military humanitarianism. The next chapter will introduce the relevant topics in PMSC literature, which will be linked to this liberal Pelagianism by accounting for the dangers it brings along afterwards.

### **3.Literature review**

Today's JWT is largely tainted by two ideal type approaches that sometimes overlap, are not always consistent and despite their seeming incompatible character can both be present within one article

or book. They are called Walzerian and revisionist; by and large statist and individualist perspectives. The former emerged during the Vietnam War and the latter was a critical response to this approach. Despite acknowledging the debt he owes to the classical authors of JWT Walzer shows a certain belief in differentiating history from the present by saying that he merely occasionally refers to historical JWT authors. Moreover, he writes in the preface of his book *Just and Unjust Wars* (2015): “the theory was invented to deal with what we now call “conventional” warfare” (x) and “my main concern is not with the making of the moral world but with its present character” (xxii).

Methodologically, Walzerians argue for casuistry, which means treating PMSCs (and ethical events in general) in their specific contexts – hinting at not being concerned with a possible universal moral world. Walzer does this from a perspective of political philosophy. A fundamental aspect of his ‘practical morality’ is his general reliance on the *legalist paradigm*. This is how he refers to the international legal system and Walzer contends that states should possess exclusive legitimacy. Although rooted in morality, this directive may not always offer the optimal ethical framework and thus, at times, ought to be disregarded – *supreme emergencies* (Braun, 2018: 351-352; Walzer, 2015: 253).

Notwithstanding, his revisionist critics attack Walzer's legalist paradigm because it appears to be Walzer’s main frame of reference from where ethical considerations are based on. Therefore, the legal international order of state rights can be seen as being conflated with legitimacy after a critical reading of Walzer (Braun, 2018: 351-352). However, as mentioned, his reliance on this legalist paradigm provides a moral base for his thinking on ethical events in general as it is perceived to be a formalization of the JWT. Also, by using the domestic analogy in favor of state rights in international society Walzer justifies a certain state-centrism (Braun, 2018: 351-352), which legitimizes the state’s authority and establishes it as the only object for legitimate authority.

In that sense a focus on the state, which represents a social community is an important object of analysis in war ethics and justifies the ethical divide between individuals and states. Revisionists deny this, together with the difference in killing during war- and peacetime and plea for a revision of the divide between *ad bellum* and *in bello* because combatants have the moral duty to ethically judge their (country’s) reasons in a conflict.

Hence, from an analytical moral perspective, the revisionists went on the attack. For example, Schwenkenbecher argues that individuals outside states can wage war for political purposes

because the overall justification of violence is depended on just cause and if an individual represents the will of a people the legitimacy criteria is met. (Schwenkenbecher, 2013: 162, 166-167). Other revisionists go further and claim that just wars of self-defense do not require any authority to be called just and plea for the complete abandonment of legitimate authority altogether (Steinhoff, 2019: 315-316). Fabre's cosmopolitan individualism aims at dismantling the statist history of JWT by arguing for the moral equality of all individuals, independent of states. She states that the protection of individual rights and interests is the sole legitimating factor of state privileges and rights. Moreover, she puts the demand on states to treat foreign citizens' fundamental rights similarly as domestic citizens' ones (Fabre, 2008: 964).

Self-defense, or aiding the self-defense of others, is generally considered to be the only just cause today. This shows that JWT has become more peaceful; wars for the retrieval of territories are no longer justified, despite Augustine intended them to protect the commonwealth. Today, JWT, roughly, sees legitimate authority either as tautological with states under international law that protects territorial integrity (Walzerians), or unnecessary due to its subjugation to just cause (revisionists), which potentially turns all individuals into legitimate authorities in deciding on the just cause. Later, I will show the importance to reconsider these approaches, especially the latter one.

### **3.1 Legitimate authority**

The revisionist Steinhoff (2021), together with Fabre (2012), argues that the individualization of JWT overhauls the necessity of legitimate authority (partly) due to the changing nature of contemporary warfare. They state PMSCs do not pose a challenge to legitimate authority since they do not support the state monopoly on violence and deny states moral qualifications; only individuals are moral and can engage in force if the war is just (Fabre, 2010: 559). Steinhoff concludes that the historical JWT is much less conservative and statist than the contemporary JWT claims and allowed for private war in a context of self-defense, which means that authority is subservient to just cause; which is self-defense (Steinhoff, 2019). Self-defense warrants hiring PMSCs and being hired as a PMSC, without justifying any of today's usage of PMSCs. Fabre argues that with more regulation the argument against PMSCs based on the loss of controls on violence is countered (Fabre, 2010: 227-228).

Walzer, however, sees the legitimate state monopoly on violence as the only way to ensure accountability and responsibility, because states are the best in enforcing regulations on PMSCs. He states that PMSCs are undesirable but with great exception could be used in instances where states are insufficient. If the accountability problem is met, then PMSCs can fit in the perspective of the decision of violence being a state monopoly (Walzer, 2008).

Despite the difference in approach, the concern of accountability is acknowledged by contributors on both side of the debate and the slow move towards (self-)regulation is widely underscored (Barnes, 2013; Eckert, 2016; Fabre, 2010). The relevant challenge of accountability to this thesis is on the employer side, or the perceived legitimate authority. Differentiating these challenges is important, because PMSCs are not deciding on wars, they are hired, which puts responsibility on the politicians hiring their services. By using PMSCs states are provided with plausible deniability, which allows them to circumvent accountability for their international military conduct – this is much more difficult with regular troops. Thurner primarily puts blame on Russia’s Wagner Group and argues that US PMSCs are transparent and legal and thereby do not pose a challenge to legitimacy. The transparent and legal character differentiates them and ought to overcome accountability issues that would undermine the state’s control of force, and thereby its legitimacy (Thurner, 2021: 44-46).

Both Walzerians and revisionists argue for regulation, rather than prohibition of PMSCs, and despite a difference in tolerable applications, revisionists being more tolerant, both base their arguments on self-defense. If self-defense is the primary argument in the JWT related to PMSCs, then the revisionists are correct in that this does not have to be authorized by a state, based on a mere natural right view of the right to life. However, in the analysis, PMSCs will be reconsidered by looking at specific cases in which an exclusive legitimate authority proves itself to be important, contrary to the trend that undermines it.

## **3.2 Just cause**

What makes a just cause has been subject to significant change over time. Today, self-defense is paramount and has extended to the defense of citizens outside one’s state if that state fails, or is unwilling to protect its citizens’ fundamental human rights – R2P. Contrary to an Augustinian JWT, this notion of responsibility claims that internationally organized protection of civilians is not a right of the needy (in Augustine’s words), but the duty of the global community (Glanville, 2014:



48). R2P as a concept is a broad academic topic but this will not be dealt with in this thesis. Its role in JWT in relation with PMSCs as a means to alleviate human rights crises is most important and not its effectiveness (Eckert, 2012: 87). It relates to the often-discussed topic in contemporary 'just cause' contributions on the issue of privatized humanitarianism. This popularized during the Darfur genocide, in which the UN appeared too slow in preventing the genocidal plight of the Darfurians and also refused to outsource the forceful end of the conflict.

Brooks and Chorev (2008) argue against this "ideological distaste for for-profit enterprises [which] has prolonged the supply–demand gap and in turn contributed to ongoing humanitarian catastrophes" (Brooks and Chorev, 2008: 116). Machairas too argues in favor of privatized humanitarianism and states that Kosovo and Rwanda have shown why legitimate force can precede legal force (Machairas, 2014: 65). Others are more careful and argue that PMSCs can only be used in humanitarian interventions if they respond to severe and far-reaching humanitarian crises and are likely to be highly successful; despite regulatory reservations (Pattison, 2010: 26). Avant argues against privatized peacekeeping and bases this on the threat of destabilization in a situation of weak government control after PMSCs leave (Avant, 2009). This humanitarianism shows how PMSCs could aid the pursuit of a just war if conventional means are insufficient. As a whole, JWT is increasingly favorable towards privatized humanitarian interventions as a last resort.

Walzerians, or statist, are largely focused on consequentialist justifications that criticizes PMSCs but tolerate their engagement in a context of humanitarian intervention (Heinze, 2009: 125-126; Pattison, 2010: 27; Walzer, 2008). The immediate necessity of tackling humanitarian catastrophes challenges the thick Weberian notion of legitimate authority and allows for the monopoly on violence to be limited to who decides on violence. Revisionists state that if PMSCs are used in humanitarian interventions and adhere to *ius in bello* they are not challenging JWT, provided they act on behalf of someone's self-defense. Especially when a state's only possibility for self-defense is through privatization, outsourcing is justified. Fabre sees no ethical difference in hiring a PMSC for self-defense against an unjust act of aggression and hiring a PMSC as an outsider for defending citizens from their own, e.g., genocidal government (Fabre, 2010: 543-544). In arguing favorably on the position of PMSCs in humanitarian interventions, she presupposes a deontological position on self-defense. Namely, violence against aggression from either one's own government or other state is always justified because self-defense is a natural right. Moreover, relying on private or public soldiers is irrelevant in her consideration.

### 3.3 Right intention

Most ethical literature on PMSCs focuses on an employee perspective. This is a lively debate concerning the prominent issues of the difference between intent and motives (Pattison, 2008: 144-149) and the prioritization of national over private soldiers (Lynch and Walsh, 2000: 134-135). Lynch and Walsh (2000) argue that the current immoral view of private force rests on a preferred national patriotism and the 'remuneration argument' forgets that national armies promote military service as a useful step in someone's further career. The fact that most PMSCs are former military shows that individuals with financial motivations are also present in the military but chose to leave for a better paying employer. This at the least challenges the moral argument in favor of national militaries based on the supposed motivation of national patriotism (Lynch and Walsh, 2000: 134-135).

Pattison distinguishes between motive and intent because intent is aimed at a specific action (whatever contract one has) and motives is aimed at underlying reasons (financial motives, adventurism, sadism, etc.). Therefore, the JWT principle of right intention in relation to PMSCs is generally subservient to just cause because if the contract is intended to support a just cause, there is no problem on the side of a PMSC. Moreover, Pattison states that deontological motives in the principle of right intention ought to be trumped by consequentialist considerations; further differentiating between intent (contract) and motive (personal reason) (Pattison, 2008: 144-149) and in agreement with Walzer's casuistry.

This shows how right intention has become less relevant due to the primacy of just cause, which would justify mercenaries if necessary. However, the result of this is the negligence of the private-public distinction, and, moreover, the substitution of motive with intent. This not only overhauls the necessity of right intention, as being a means to ensure authorities respond to just causes only and not strategic incentives, but also challenges just cause because the supposed just war is allowed to be waged with strategic/financial motivations (Onuf, 2009: 244). Thereby, the arguments above in favor of PMSCs do not perceive the alignment of strategic/financial motivations with humanitarian causes as problematic. In the analysis this will be scrutinized by primarily engaging with a decision-maker perspective of right intention that criticizes the development of the JWT by accounting for its dangers.

The closest the literature comes to considering the decision-makers viewpoint in privatization is in the demands for regulation and plausible deniability; the latter being severely understudied.

The demand for regulation is widespread, primarily from a legitimate authority perspective to ensure controls on violence. However, for right intention, regulation is also perceived to be a useful tool in safeguarding that PMSCs respond to just causes.

## 4. Analysis

This origin of the JWT's PMSC normalization has thus far not been discussed adequately in PMSC ethics, and by attempting to come to grips with the new privatized historical context, both Walzerian and revisionist JWT have to be analyzed. In the next section they will be shown to implicitly debate about the theological discussion on original sin.

### 4.1 The Pelagian origin of PMSC normalization

The two core functions of JWT are to limit the destructiveness of war and to punish injustices. Then why are JWT contributors increasingly justifying PMSCs and, thereby, increasing the possibilities of violence by creating more legitimate actors? In this section I will answer this question by accounting for the relation between PMSCs and an increasingly violent JWT due to a liberal democratic worldview. Answering this question is important for attaining an adequate view on the ethical nature of PMSCs, which will relate the literature review to the subsequent empirical analysis of the risks that come with PMSC normalization. Considering JWT to have theological origins, and the general acknowledgement that theological questions precede all political questions,<sup>2</sup> the theological origin for the possibility of this violent trend has to be accounted for. This is due to the rebirth of the Pelagian worldview, modernized in liberal cosmopolitanism.

This perspective extends human rights, which were originally limited to one's own community, to all 'souls,' and ultimately transcends social bonds and political groups (de Benoist, 2011). The revisionist justifying arguments on PMSCs are most closely aligned to this innovation in JWT and shows in Fabre arguing that the state has the duty to treat *all* of the world's citizens equally (Fabre, 2008: 964). Moreover, the abolishment of legitimate authority as a JWT condition also supports this worldview (Steinhoff, 2019) because it justifies the right to intervene if the cause requires it and individuals do not require authority to do good. Not differentiating between private and national soldiers allows Fabre to approach every individual as an equal moral agent with moral

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<sup>2</sup> As anarchist revolutionary Proudhon famously said in his "Confessions of a Revolutionary."

duties. The link with Pelagianism relates to the possibility of autonomous moral progress towards perfection and the understanding that doing good is an individual act of free will unrelated to previous acts. Or, as Warfield states, “[Pelagians] separate the [human] race into a heap of unconnected units” (Warfield, 1886: xvi). This means that every act is unrelated to any other act because free will remains intact, even after sin. Revisionist analytical moral philosophy surely fits in this approach because their abstract thought experiments are meant to “obscure [...] the intricacies of historical cases” (Braun, 2018: 5).

On the other hand, Walzerians would seem to disagree due to the state-centric approach in the legalist paradigm and emphasis on political community. Moreover, Walzer, argues that only in supreme emergencies interventions and private violence is warranted. However, precisely in this supreme emergency lies the reason Walzerians fundamentally agree with this cosmopolitan perspective. It shows that if intervention posed less unwanted consequences, it could be permitted more often. He states with regard to the Syrian Civil War, in which he considers the net results, that intervention is not advised (Mock, 2016). Therefore, the decision to intervene is contingent on the possibility of success and proportionality in the sense of costs. Abstractly speaking, if the world was more unipolar and a supreme hegemon existed, Walzer would likely agree with more interventions if the cause aligned with his cosmopolitan perspective. This undermines his supposed statist perspective, which is more like a temporary acceptance of the status quo than an inherent aspect of his perspective. Therefore, the difference between revisionists and Walzerians appears merely one of quantity, not quality.

Their debate on PMSCs too is interesting only to the extent that Walzer sees national soldiers as preferable in their application in supreme emergencies, whereas revisionists do not differentiate in humanitarian causes. The conclusion remains the same; if the cause is just enough PMSCs are warranted. This shows that on a fundamental moral level legitimate authority is subservient to just cause, also to Walzer. The primacy of just cause, which is the alleviation of *any* humanitarian crisis, is indicative to the Pelagian belief that free will enables us to perpetually do good.

Pelagianism also shows in the individualization and democratization of the tradition. Pattison, for example, justifies the usage of PMSCs in a democratic context by presupposing that democracies are more peaceful according to DPT (Pattison, 2014: 80). Liberal democracies have spread the idea of DPT, which, as in Fukuyama’s words ideally have “no need for generals or statesmen; what remains is primarily economic activity” (Fukuyama, 1989: 5). Moreover,

Fukuyama heralded the liberal world order to be “the end of history as such” (Fukuyama: 4). Humanitarianism too has become (neo)liberalized since the 1970s (Oszu, 2018), and besides alleviating human suffering, aims at peacebuilding on democratic and liberal grounds. Democracy, markets, and the rule of law became powerful tools in spreading Fukuyama’s ideal into regions where individual human rights were at risk (Barnett, 2011: 161-170). This also relates to PMSCs being used in wars accompanied by regime-change objectives or liberal state-building.

However, this individualist view demarcates all acts and does not consider the development of character and the influence of habit on an organically grown mankind. This holds true for the revisionists who, after every thought experiment, reposition into their original position. It also relates to Walzerians who, after every supreme emergency reposition into the legalist paradigm, like nothing happened. Mankind, in that sense, is made for free will, not the other way round. Augustine considered the existence of sin, besides individual sins. Moreover, Augustine would not have supported international privatized peacekeeping because it does not protect the commonwealth, it protects individuals beyond the political community. This humble view on human nature is wary of arguments that belief in the possibility of always doing good, which in the next section will show in the risks of arguments favoring the use of PMSCs. In what follows international PMSC behavior is analyzed with the perspective of undermining a prudent JWT.

## **4.2 Dangers of PMSC normalization**

### *4.2.1 Legitimate authority*

Ultimately, Thomist and Augustinian legitimate authority deals with the aspect of order, which is considered its primary duty. There are multiple ways to approach the ethical challenge of PMSCs to this; starting with the monopoly on violence. Even when Weber’s ideal monopoly on violence was strongest some military tasks like logistics or technological support were outsourced to private entities who increasingly occupied positions in “forward areas” during conflicts. What changed over time, and especially after 1991, is that contractors are no longer “nice to have,” but have become essential parts of all operations with every non-offensive military task being prone to being outsourced (Cotton et. al, 2010: 9-11).

In line with this is Spearin’s (2017) book *PMSCs and State Force Divided*. He considers the three domains of strategic theory and shows how PMSCs are not outside of states but are in support of it and focus on engaging in defensive tasks. Moreover, PMSCs are troops that consolidate

territory, whereas regular troops conquer it. This is supported by the machine-intensive and more costly character of conquering territory in contrast with the human-intensive side of consolidating it (Spearin, 2017: 203-205). Applied to JWT, Spearin's thesis argues that PMSCs are in support of the state monopoly on violence, and thereby legitimate authority, because they enable militaries to be more effective and efficient in their operations by taking over tasks related to establishing order and peace behind the frontlines. Thereby, the monopoly on violence has changed, since the Weberian ideal, from meaning that only the state uses (and decides on) force, to the state only decides on force. This is similar to the previously mentioned order that lasted from the Peace of Westphalia to the French Revolution, in which states granted the right to use private force and used mercenaries but challenged unwarranted private violence. The primary difference is that PMSCs are not frontline fighters today.

However, these offensive/defensive divides are not as important when it comes to *ad bellum* because the mere presence of PMSCs in warzones, under whatever individual contract, makes them a part of the war effort and therefore should be subject to ethical analysis. Or, in revisionist fashion, is training or providing others with the means to kill that different from doing it yourself? Moreover, Logistics, security and other "supportive functions" are costly enterprises and by diminishing these costs the decision of going to war is incentivized (Eckert, 2009: 140). The Iraq war is the best example of this, which could not have been fought without PMSCs (Godfrie et. al, 2014: 111). Also, casualties amongst US contractors are significant and exceed so-called "offensive" US troops. If PMSCs were primarily supportive, "defensive," and working in kitchens or latrines, there would not have been an estimated 8,000 deaths among US contractors contrary to 7,000 US military personnel in post-9/11 wars (Watson, 2019).

Therefore, war is not only financially costly but also politically. As Singer rightly notes, by relying on PMSCs executive branches can partake in unpopular conflicts through their foreign policy without oversight or accountability to the legislative branch. Usually the legislative branches decide on whether a western democracy participates in conflicts but PMSCs offer the possibility of sending 'businessmen' to a conflict instead of soldiers (Singer, 2003: 206-216). On a rather cynical note, PMSC deaths are usually not counted in casualty lists (Wolfendale, 2008: 229), which has been useful in cases where the US utilized the non-combatant status of PMSCs to cloak their true presence like in Colombia (Eckert, 2016: 129).

Another case of this secretive aspect of PSMC contracts, and a major challenge to the monopoly on violence, was in Syria, where the exact number of US contractors is not known to this day (Baldor, 2023). The lack of transparency and invoked plausible deniability merits speculation about what causes are being furthered by who specifically, but some facts can provide a base to analyze PMSC presence ethically. Firstly, justifications given by the White House for this military presence have been “to reduce violence, maintain military pressure on ISIL and protect the Kurds, address Syria’s humanitarian crisis, and to support Israel” (Aljazeera, 2022). However, when Trump commented on the US being in Syria to “secure the oil,” obviously, only strategic interests are considered, and not moral ones. Also, considering the objectives, and that only a maximum of nine hundred regular troops are in Syria, it seems at the least likely that the amount of PMSCs is significant. This was acknowledged by General Jarrard, who, contrary to DoD numbers, stated that the actual number was more like 4,000. (DeGrandpre, 2017; Williams, 2020). A skeptical Augustinian approach would demand clarity on this matter and not consider Syria part of the US commonwealth and thereby outside of duty.

Secondly, the opaqueness of PMSC contracts and how many contractors are present in a conflict area do not only challenge the separation of powers, as mentioned by Singer, which undermines democratic controls over force. They also allow non-elected government officials, for whatever intention, to not follow orders of elected leadership. This was also the case in Syria where US diplomats eventually admitted to “playing shell games” with actual troop numbers to President Trump who wanted to withdraw from Syria (Williams, 2020). Usually plausible deniability is invoked to protect elected officials from public criticism. In this case, the president was purposefully misled.

Despite the general view, as mentioned by Spearin, that PMSCs are in support of the state monopoly on violence, and thereby uphold order, this second case shows how the secretive character of PMSCs also undermines the role of the decision-maker as the sole decider on violence; besides the previously overhauled norm of the state being the sole legitimate violent actor. This insight shows the importance of legitimate authority, before even considering the question on whether violence supports a just cause, because it highlights incoherency within the government and possible particularistic interests, rather than the common good. This incoherency of government could also be a result of different views on proportionality, as part of the responsibility of the legitimate authority to act as a judge. However, this does not warrant the absence of

transparency about PMSCs, which should therefore be approached with skepticism. Besides Augustine's general disgust of revolts would necessarily delegitimize US support to the Kurds, the failure to bring order to the region, which is a prerequisite of legitimate authority, also problematizes the US and PMSC presence, let alone the incompetency of the US state to form one line of action.

Walzerian legitimate authority too consists of the requirement that no superior political actor exists. Therefore, in these cases of executive branches circumventing legislative branches, which ought to decide on war, there is a friction of legitimate authority considering the separation of powers providing legitimacy to a democratic political system. In a radical revisionist way, the US diplomats did not do anything wrong from an authority perspective. They would surely disagree with the current US presence in Syria due to lacks of transparency and questionable objectives, but considering the notion that legitimate authority is an individual consideration, going against a hierarchical decision is not unethical per se.

The implications to the monopoly on violence seem obvious. Legitimate authority as perceived in western democracies is subject to being undermined and fractured amongst different parts of a state, which can even be at odds like in the case of Syria. So far, violence was still issued by state officials, but its decentralized character and the fact that non-elected officials are able to disavow elected officials' shows that the monopoly necessity in legitimate authority is not met. Namely, the decision of diplomats to not disclose the number of troops in Syria necessarily contributed to the continuation of possible violence and was made from a position that had authority above it.

The importance of distrusting authority, as Augustine prescribed, becomes apparent in this case. Namely, the dishonest disclosure of true casualty numbers fails to follow Johnson's view on sovereignty as being for the good of the people governed because it is aimed to prevent political backlash. It also relates to an Augustinian view on proportionality inherent to legitimate authority because actual casualty numbers were apparently considered disproportionate to the objectives set out or achieved. Moreover, the dispersed internal objectives of the US government further question the legitimacy of the actual government. Firstly, the government fails to be coherent; secondly, it undermines the supposed democratic state; and thirdly, the alleged leader of the country cannot act responsibly because he is lied to by his own officials. In that sense, the Syria case shows that authority has little functional meaning when it does not align with a just cause, as perceived by different parts of the state. Considering the function of legitimate authority to limit private violence,



allowing for decisions on violence to be made in this sense has the risk of being influenced by private actors. Due to the lack of transparency this cannot be proven but a skeptical approach forces one to consider corrupt intentions.

However, even the Walzerian and Augustinian state-centric approach on deciding on violence is challenged in cases where PMSCs operate like quasi-states. This relates to a case in which Elon Musk unintentionally became a PMSC due to his decision to facilitate killings, from outer space, in the Ukraine war from February 2022 onwards; especially when he still paid for it himself in the beginning of his entrance. In this perhaps revolutionary case Musk's Starlink satellites provided the UAF with essential communication means that contributed significantly to repelling Russian attacks and Ukrainian counteroffensives. This case is not a conventional PMSC case because Starlink was never intended for war, and it does not pose risks to employees. However, it can still be considered to be a PMSC because it participates in killings when, for example, drones are connected with the system (Macias & Sheetz, 2023).

A Walzerian approach could only allow for this case when it is considered a supreme emergency because the decision to participate in killings by Starlink is made from a non-state company position, which is an essential part of Walzer's approach. Usually supreme emergencies are used in justifying killings of civilians, like in Hiroshima, but since Walzer's emphasis on state-centrism, allowing not merely private, but also autonomous actors to participate in a foreign war, this case must be a supreme emergency as well, albeit less controversial because it does not directly lead to mass killings. What allows a supreme emergency is depended on the survival of a political community, and due to the tactical significance of Starlink to the UAF, it could be argued that the Ukrainian political community would have suffered greatly without it. The lack of state (legitimate) authority is thereby trumped by the just cause of protecting the political community.

However, because Musk's business is for a large part in space and his Starlink is able to connect all over the globe, his judgement to facilitate Ukrainian communication, in a sense, made him an authority too. Whereas in the past only states could offer satellite capabilities, today billionaires have the resources to influence conflicts and considering the lack of controversy it will likely not decrease. This problematizes proportionality questions, as being part of the authority having the responsibility to act as a judge internationally, because it did not take long before Musk started asking and receiving governmental funds to continue his support to Ukraine. If this billionaire presence in conflicts becomes more prevalent legitimate authority questions of that order will be

reduced to proportionality and be merely contingent on consequentialist financial incentives to participate in conflicts instead of consequentialist considerations of human suffering. Moreover, it is at risk of being depended on whatever causes billionaires might perceive as just, contrary to a political community.

A clear problem in the cases above is knowing who actually has authority to decide on force, let alone asking questions on whether it is legitimate. This is not just an issue of separation of powers, but a more general challenge to controls over force. The issue of separation of powers, as mentioned by Singer, specifically challenges democratic controls over force, but the Syrian case shows that the challenge is even larger. Namely, not just legislative bodies can be undermined by relying on untransparent PMSCs, but also executive bodies. As mentioned in the literature review, Thurner stated that only the Russian Wagner Group contributes to the issue of plausible deniability. However, as shown above, the US experiences similar transparency problems that undermine democratic controls over force because elected officials are at risk of being misled by their own officials.

Eckert (2016) would strongly disagree with Thurner's view on US PMSCs and considers the undermining influence they pose on the democratic control over force. Namely, when a state no longer relies on its own citizens to engage in warfare, personal connections to wars decreases and societal considerations on just cause necessarily with it. If the citizenry is distanced from the decision-makers and their wars, democratic control over force is discouraged (Eckert, 2016: 77-78). In that sense, outsourcing not only relates to violence as such but also to the fundamental responsibility that comes with participating in a political community. Delegating this to private entities who happen to be willing to respond to your cause does not prove a cosmopolitan individualism in causes that traverses borders. It merely shows how the urge to contribute to one's community has diminished, which favors opportunistic mercenaries. This is indicative to a progressive mindset that soon or later overcomes the same norms it once established. The supposed liberal norms of anti-mercenaryism and democracy are being undermined by PMSCs because

In Aquino's time legitimate authority was an unsettled discussion, which perhaps was the reason for him to prioritize its question in JWT. We are advised to reconsider this again, now that the world is returning to outsourcing violence (Eckert, 2016: 64). Today, just cause is usually prioritized in JWT, which, in the next section, will be discussed as the reason for the challenge on

legitimate authority; especially considering the revisionist attempts to completely overhaul this condition.

#### *4.2.2 Just cause*

This section accounts for the normalization of privatized human rights protection and whether it contributes to the necessity of establishing justice. By showing how even Walzerian JWT allows for ‘supreme emergencies,’ the supposed statist opposition fails to put forth a principled moral case against it and, as Pattison argues, relate more to characteristics of the phenomenon in its present form, which can be solved by regulation (Pattison, 2010). However, Pattison’s assessment does not satisfy. Namely, despite being true that PMSCs do not inherently challenge just cause as it is perceived today (self-defense or R2P), allowing for the increased reliance of PMSCs is creating more situations in which unethical applications of PMSCs emerge. This is due to the growth of the PMSC market and the loss of obligatory war justifications. My goal is, then, to argue that the emerging consensus, in which PMSCs are justified in certain cases, ought to be reconsidered if merely for the sake of self-reflection because it relaxes the limitations on violence by overturning ancient reservations against privatized violence. Obviously, Walzerian and revisionist JWT do not justify the majority of PMSC conduct in the world but the argument in this chapter will show how even a minimalist tolerance of their presence, in the form of R2P, is disadvised.

In JWT, most indicative to this view is the humanitarian turn the tradition took after several severe human rights crises of the 1990s. In the last three decades, this has evolved into a duty of international society in the form of R2P and led to arguably the single most interesting case in PMSC history – one that did not happen. Namely, when Hollywood star Mia Farrow opted to hire a PMSC to stop the genocide that was unfolding in Darfur, if the international community failed to act (Morris, 2008). Walzer agreed with her and deemed the issue a supreme emergency that legitimized disregarding the legalist paradigm.

Contrarily, until the end of the Cold War, JWT had generally plead for prudence in the violent world it found itself. Today, the JWT is evolving to urge politicians to intervene in conflicts, where the politicians are hesitant, and even urges to use privatized forces (Walzer, 2008; Machairas, 2014; Brooks and Chorev, 2008). Interestingly, both the UN and most states have been reluctant in privatizing conflicts on behalf of human rights protection (Hull, 2008; Brayton, 2002: 304). This shows how JWT in relation to privatized human rights protection is more cosmopolitan in

perspective than the states it attempts to influence. However, is incentivizing the PMSC market to participate in alleged just causes of self-defense truly contributing to a more just world?

The arguments in the literature review states that PMSCs are warranted if a government cannot defend its citizens adequately without using the market for force. Moreover, it becomes a deontological duty because it is a duty to protect oneself, and the citizens, from an outside attack. Citizens are also justified to hire an outside PMSC to prevent themselves from a tyrannical government to fulfill this moral duty of self-defense, which would be a humanitarian mission. However, this can be challenged on consequentialist terms.

Despite fierce debates about the justness and the US role in supersizing the PMSC market due to the impossibility of doing without them, the US post-9/11 wars were still fought by a liberal democratic state that attempted to spread humanitarian values. Renowned JWT scholar Elshtain argued favorably for these wars because the humanitarian cause, combined with a sense of self-defense, was deemed sufficient (Elshtain, 2004). However, since the gradual US withdrawal during the 2010s, the established PMSC market spread to previously peripheral regions for new clientele. This has led to an increase in proxy-war types of conflict and a further decrease in oversight and accountability. Moreover, the enduring status quo with regard to transparency and plausible deniability contributes to a dependency on PMSCs in conflicts outside self-defense justifications and further incentivizes the market (Valdés, 2022: 1-6). Also, the mere observation that the biggest PMSC clients, the US and Russia, also have the strongest militaries in the world shows that the plausible deniability aspect is a major selling point for PMSCs when they are participating in conflicts beyond self-defense or R2P.

Revisionist abstractions are not able to account for this problem, because they follow a cosmopolitan logic. This allows for PMSC use in humanitarian circumstances (Fabre, 2012), but fails to consider undesirable consequences of these instances because they are outside the moral rules revisionists attempt to establish. They differentiate between just and unjust causes but will not see the intricate relation these two have in regard to PMSCs.

Namely, even if accountability measures are taken, PMSCs that fall outside the measures can move to other countries and continue their business. This was the case of Blackwater founder Erik Prince, who's company was present in the war of 'self-defense' of the US in Afghanistan and who offered to intervene as part of an R2P mission in the Darfur genocide – he was in contact with Farrow for this. These cases could both be considered just in JWT. However, after being sidelined

in the US for his company's misbehavior, Prince left for Abu Dhabi and opened a new PMSC, Reflex Response Company (R2), which has operated in every Arab Spring movement that the U.A.E. got involved with (Cole, 2019).

This problem is most pertinent in weak states because, as Leander shows, PMSCs allow governments or groups that rely on foreign funds and natural resources to engage in conflicts without the recruitment of civilians or being dependent on taxation. The distance between government and civilians becomes largest in this sense of weaker states and is likely to result in more dependency on PMSCs (Leander, 2005: 618-619), without challenging the JWT notion on just cause in general.

A typical case of PMSCs aiding in unjust conflicts in which weak governments and civilians are in this new distanced relation that removes the obligation of the government to justify its war are the Libyan Civil Wars after Gaddafi was ousted. This has been referred to in an OHCHR report as "*the first totally privatized war in modern history.*" There were no national nor united rebel armies in Libya at the time, merely local militias in weak alliances that were supported by foreign PMSCs; also Prince's (Martín, 2019), who's R2 has been accused of attempting to seize Turkish arm shipments to the UN recognized government (GNA). PMSCs from numerous countries (Russia, U.A.E., Turkey, France, Italy, Sudan, US, and others) fought for both major belligerents, also Haftar's LNA, and Syrian PMSCs even fight on behalf of both sides (Burke, 2020; Martín, 2019).

Examples of PMSCs aiding just and unjust causes are ubiquitous. The US PMSC MPRI, trained soldiers for Equatorial Guinea's dictator Obiang in exchange for oil drilling rights (Kuzmarov, 2014: 5). On another mission, MPRI engaged in the training of African peacekeepers (Singer, 2003: 60). Another is DynCorp, who participated in the training of Kosovo police force after the generally perceived legitimate bombing of Serbia that ensured Kosovo's future independence (Bureau of Public Affairs, 2009). Like MPRI, on a different mission, DynCorp contractors were sent to Colombia for a counter-narcotics operation that was purposefully hidden from the public and resulted in rogue contractors trafficking narcotics and polluting farmlands of Ecuadorian peasants (Kuzmarov, 2014: 6, 13).

The fact that the world's biggest private violence providers are part of this inherent characteristic of the industry shows how Pattison's earlier critique on PMSC sceptics is insufficient. Namely, in the best-case scenario, regulation would merely cease unethical behavior from domestic

PMSCs, but its utility will not be diminished internationally. This shows that tolerating PMSCs in aiding just causes, despite being noble, is contributing to the growth of a market that is neither in favor nor at odds with just causes. Suppliers respond to demands, not just causes, and by contributing to this market also unjust causes are incentivized.

The danger of this has already been shown above in the cases of Erik Prince, MPRI and DynCorp in which PMSCs are not bound to just causes but integrate unjust causes too. The naivete in thinking regulation will fix these issues is wishful thinking. The market for force has no borders and hoping that one day all countries in the world will adhere to the same standards is not a worthwhile position considering the ethical dual-use capabilities of PMSCs and the increasingly pluralizing world order. Moreover, revisionist regulatory demands aligns them with the legalist paradigm, which would contradict their criticism on Walzer. An analytical morality should not require legal frameworks as an original position but establish moral rules out of abstractions.

This creates moral problems in allowing PMSC to intervene. Imagine some entity, the UN, Mia Farrow, or a coalition, hiring Prince's Blackwater to intervene in Darfur, which Walzer and revisionist would have supported as a just cause. The mission contract would be millions of dollars, which ultimately will also be used in causes that are impossible to deem just, as has been shown. The revisionist argument is surely lacking in providing ethical guidance in relation to PMSCs because they do not consider the consequences and merely provide abstractions.

Therefore, it is advised to be even more prudent than Walzer's supreme emergencies permit and not increase the number of violent actors who have no regards for borders and simply move to circumvent legislation. This shows why focusing too much on punishing wrongdoings leads to forgetting about limiting the destructiveness of war as a result of a compassionate cosmopolitanism in JWT. An Augustinian war ethics acknowledges that there is no moral duty to all of humanity, only to one's commonwealth. The cosmopolitan duty to all is at odds with an Augustinian approach who says, "we should love all, but we are not bound to do good to all" (Aquino, 1939). Thereby, more weight has been given to arguments that argue against using PMSCs but were insufficient in also criticizing just causes that contribute to unjust causes, as well as creating a dependency on them. In the next section on right intention, the alignment between strategic/financial and humanitarian interests will show further ethical problems inherent to PMSCs.

### *4.2.3 Right intention*

Whereas just cause is clearer due to governments being required to justify their causes, right intention is important to analyze the underlying motivations of the decision-makers. Namely, when a JWT contributor states that only wars for humanitarian purposes are just, every government can simply veil their strategic interests under humanitarian causes. As mentioned, the official justifications for the US presence in Syria all seem on par with a humanitarian just cause but Trumps oil comment, combined with the fact that the US controls the majority of oil and agricultural production regions, the right intention for this cause is missing.

However, it is difficult to know the true intentions of political decision-makers or PMSCs, even when they admit it. Therefore, JWT should ultimately be meant for decision-makers, not scholars, because they have to deduce the best and most ethical cause of action from all possibilities. Nonetheless, scholarly JWT has an explanatory solution. I will follow the example of Johnson who applies IR theory to the principle of right intention. This provides explanatory arguments for using PMSCs that allow for an ethical discussion on whether it is intended with the proper standards, which is the intention towards peace and in response to a just cause. The difficulty in analyzing PMSCs lies in the ambiguity of this intend, which could either be strategic or principled, so an IR approach will uncover the risk of employing PMSCs. Motivations are interpreted from actions, which will provide cases that can be discussed ethically.

From a Marxist/class perspective, militaries are subjugated to the interests of a capitalist class that aims at profit accumulation through imperialistic endeavors (Luxemburg, 2010: 192). In a similar view, Bruff states that neoliberalism, represented as the current capitalist class, has deep social implications, which since 2001 (post-9/11 security state) and 2008 (Wall Street crash bailouts) has become more authoritarian. In this sense neoliberalism is not perceived as it popularly is – mere privatization and ‘trickle-down economics’ – but as a governing force that seeks social purposes, which can be achieved by both privatizations and the mobilization of institutional powers. The former causes the decline of public participation and social compromises on a state level, and the latter allows for ‘economic necessities’ to justify undemocratic policies (Bruff, 2014: 113-115).

As mentioned, neoliberalism is considered to be one of the main causes that led to military privatization. Several initiatives by the US government can indicate how this process, as laid out by Bruff, contributed to the rise of PMSCs. After the Vietnam War, drafting civilians was

considered no longer feasible but the (neo)liberal aim of incorporating new regions into the global trade did not hamper the need for opening their markets. This neoliberal imperialism, as perceived by Marxist IR, paved the way for PMSCs to fill the ranks of armies that could no longer rely on drafts. Subsequently, the US and the UK became functionally depended on PMSCs to the extent that neither could intervene without being aided by private companies. Whereas the Vietnam War made many Americans wary of interventions without direct foreign policy interests, PMSCs offered the means to engage internationally without legislative oversight, provided the contracts were below a \$50 million threshold (Zipkin, 2023; Godfrie et. al, 2014: 109-114, 120). This is contrary to the previously mentioned Kantian world, in which those who fight and decide are ideally the same. However, with anything Kantian, in our current world this usually does not hold.

Other dubious intentions relate to examples in which PMSCs had corporate relationships with the extraction industry. In both Angola and Sierra Leone, the governments granted delving rights of minerals to foreign extraction companies after EO had recaptured and occupied these sites from rebel groups. Brayton argues that this results in multinationals preying on weak states that are dependent on military outsourcing to fulfill their core task, which is providing security for the citizenry. He calls this a form of colonialism (Brayton, 2002: 327-328), and has been repeated by Zabcic several years after Brayton in relation to the US invasion of Iraq. This case was justified by humanitarian concerns and the right to self-defense to (possible) future harm and was characterized by an influx of multinational energy companies like Haliburton into Iraq, backed by PMSCs (Zabcic, 2007).

In view of Luxemburg and Bruff, using PMSCs in conflicts can be approached as being intended to uphold a capitalist class that undermines democratic politics through neoliberalism in favor of profit accumulation. Moreover, Trump hinting at securing the oil in Syria gives force to this thesis. Also, the 1:1 ratio of PMSCs to soldiers (sometimes even exceeding it) in both Iraq and Afghanistan (McFate, 2018: 18 & 2020: 19), and the Marxist IR view on both wars being out of imperial capitalist interests (William, 2009: 285-290), shows how both soldiers and PMSCs alike can be seen as “mercenaries in the temporary employ of a decadent class” (Evola, 2011). Moreover, due to the offensive-defensive difference often being rather blurry and the ability of PMSCs to integrate offensive operations effectively when the situation arises the ethical difference, from an authority perspective, is superfluous.



These examples show the problem that arises with differentiating between intent and motives. In supporting an alleged just cause in Sierra Leone to aid the government in protecting its citizenry, the primary motivation is informed by delving rights. In an anarcho-capitalist sense, and often present in political justifications, egoism is profitable for both parties. However, this does not imply the same for ethics and, as was shown in the previous chapter, despite some demarcated cases might hold justified outcomes for both parties there is clear evidence that the growth of the market for force leads to more instances of unjustified violence, in the sense of not limiting the destructiveness of war. Moreover, it enables previously weak political actors to use force whereas in the past this was impossible. Besides this consequentialist argument against PMSCs, a deontological ethics also prohibits the use of PMSCs because due to the presence of an immoral motivation, the force used cannot be considered a good act. Shifting the focus towards intent is an apologetic move that ignores the unethical outcomes, and still does not mean the force is done out of a sense of duty to do good ethically. From a Machiavellian PMSC perspective, doing good primarily means financially, which shows in the demand for regulation, which is another word for legitimacy.

Despite being subjugated to the state and PMSCs essentially serving the same political intentions as regular troops based on their contracts (intent), being outside the state implies aspects that come with motivations specific to the PMSC market, contrary to regular troops. Namely, plausible deniability is a major reason the PMSCs industry has grown to its current size – national troops do not offer this, often clandestine, ability (Singer, 2003: 209). However, McFate warns this exposes decision-makers to moral hazard in which actors behave irresponsibly due to not having to account for mistakes (Mcfate, 2014: 56-57). Undermining public oversight is (usually) at odds with what JWT would consider right intent. If the intention is to establish peace, serve the common good, or alleviate human suffering abroad, being transparent generally would not pose any problems. However, in the case of the common good, this is less clear. Namely, rather obviously, it is in the interest of the common good to not have nuclear codes being public knowledge. The same can be argued with PMSCs, be it in exceptional cases.

For example, when DynCorp decided to not disclose sensitive information to Liberia's Truth and Reconciliation Commission after the civil war that possibly would have posed witnesses to a risk of revenge killings. The information related to soldiers who were being trained by DynCorp, and by exposing the identities, the mission of rebuilding the Liberian army would have been at risk. On the background the US supported this decision, which would have been more difficult if they

were the ones having all the information, because it would create a diplomatic conflict in which the US could be seen as opposing the road to transitional justice (McFate, 2014: 113-114). Transparency and transitional justice were trumped by security concerns, which can be explained as being intended towards the common good, because building a stable army was necessary for order and peace in an unstable Liberia. This could have been compromised if all the data on soldiers became public.

The US has gone to great lengths to utilize this deniability trait, which shows in several legislations. The 1981 executive order 12333 allowed intelligence agencies to enter into contracts with companies for providing goods and services. Most importantly, these contracts were allowed to remain secret (Executive Order 12333), leading to contractors and individual mercenaries participating in Nicaragua's Contra war against leftist factions (Kuzmarov, 2014: 5). Other legislation about secrecy was mentioned before about the \$50 million threshold. This led to many contracts falling under this amount and larger ones being broken up into smaller specific contracts to remain the ability of keeping Congress uninformed (Singer, 2003: 210). Examples of plausible deniability that hide true intentions are abundant. One was in Colombia, where Congress allowed a maximum of 400 US soldiers as part of the war on drugs. The size of this mission was purposefully kept from public scrutiny (Silverstein & Burton-Rose, 2000: 184); subsequently, 7 PMSCs were present there, exceeding the initial purposes by supporting the Colombian state directly even though this was prohibited by congress (Zabci, 2007: 6).

Considering Augustine's remarks on the lust for power as an evil intention, the Marxist view on PMSCs in US post-9/11 conflicts problematize US conduct gravely. Despite the cause of invading Iraq, and elsewhere, to be justified as preventive self-defense by numerous JWT contributors, the intentions were (at least partly according to Marxist IR) driven by a lust for power or resources; this is a financial motivation and not in response to a just cause. When humanitarian wars are privatized, the alleviation of human suffering is reduced to being a product of immoral earnings. Therefore, the underlying motivations of politicians must be scrutinized more with regard to military outsourcing. However, the plausible deniability incentivizing moral hazard problematizes this because decision-makers are able to not disclose their strategic considerations. An Augustinian skeptical approach that emphasizes the importance of intending a lasting peace would categorically deny the justness of plausible deniability, even in the Liberian case. Namely,

a just war can only be intended to the defense of the commonwealth and not to interests of all of mankind.

## 5. Conclusion

So, why do PMSCs not uphold ethically from an Augustinian *ad bellum* perspective, despite JWT literature increasingly justifying their usage? First, revisionist attempts to demarcate moral decisions that have the possibility of being good or evil in every new instance is contrary to an Augustinian skeptical view on PMSCs. Namely, by showing through consequentialist analysis the ‘sinful’ nature of PMSCs, they are unlikely to be a force for good. Especially considering the undermining influence on weak states like Libya.

Secondly, Walzerian approaches have the same fate because the supreme emergencies that allow PMSC conduct in specific cases is informed by the same cosmopolitan worldview which perceives the alleviation of human suffering as a duty to *all*. The dangers to this lie in an increased permissiveness for violence if the consequences are limited. This shows in Elshtain’s agreement with the Iraq War in a time where US hegemony was at its peak and had few to oppose it. This war allowed the PMSC market grew to its current size and after the US withdrawal spread to illiberal and non-democratic states all over the world. In that sense, the Walzerian approach is more prudent in times of pluralism but is ignorant of human sin and consequences of actions when alleviating injustices appears relatively risk-free.

It has become clear now that a cosmopolitan politics has taken root in JWT. This perspective transcends human rights to all souls and prescribes duties to all to protect all. This legitimizes the relaxing of norms against private violence. Most pertinent danger to this is the impossibility of predicting that actions and consequences are aligned. Namely, assuming a Kantian liberal world order would eradicate injustices, today’s world is far from this ideal, and by relaxing norms that aim at limiting the destructiveness of war for the sake of eradicating injustices clear challenges emerge to the just war tradition.

First, legitimate authority has shown to be at risk in multiple ways and of major importance in limiting violence. Private violence in relation to interventions are distancing citizens from conflicts because it separates those who fight from those who decide, and it enables executive bodies in democracies to circumvent legislative controls over force. Thereby, legitimate authority in democracies is challenged in the sense that the decision on violence is made without public

oversight due to plausible deniability. This monopoly on violence, which's Weberian definition has already been challenged by private violence, is also at risk within the executive branch of government. In that sense, states are contributing to their own loss of legitimacy.

The case of Syria shows that even elected officials in government can be circumvented by diplomats with different aims. By purposefully lying about actual troop numbers legitimate authority has been hollowed out and become subservient to causes. A weakened authority is indicative to an individualizing JWT, most present on the revisionist side, but Walzerians too have allowed for cosmopolitan causes to challenge legitimate authority. Namely, Walzer still idealizes Weberian authority that opposes private violence, but if the cause is just enough, legitimate authority can be put aside. It is also at risk due to the militarization and commercialization of space, which creates authority-like entities as Starlink beyond territorially defined states.

Current just cause developments are most undermining to the JWT because the Pelagian rationalizing belief in social and moral perfection has allowed for justifications of privatized humanitarianism in certain instances. This anomaly in the JWT is willing to sacrifice previously held norms and ethical principles if it supports the hypothetical future peace that comes after regime changes. Extending communitarian rights of self-defense to a perceived global community justifies using PMSCs because the alleviation of human suffering is paramount. However, this is informed by an insufficient view that demarcates events and does not regard consequences.

This relates to a threefold inconsistency in privatized humanitarian. Firstly, following Kant's notion of they who fight decide, the legitimacy of humanitarian wars cannot be sustained because protection of the needy is reliant on forces outside the citizenry. Secondly, by eradicating injustices in certain places and attempting to build liberal institutions, injustices are perpetuated elsewhere by the same financially incentivized PMSCs. Despite JWT contributors like Pattison arguing that the financial motivations are not of importance because regular troops also have dispersed motivations, it is important to approach PMSCs as a market, and not on the employee level. Individual soldiers and PMSCs both have diverse motivations, but the PMSC market adheres to profit accumulation, which responds to both just and unjust causes. Thirdly, democratic institutions are challenged domestically by relying on PMSCs in the attempt to build democracies elsewhere. PMSCs enable this inconsistency to endure, because their utility lies in the ability to invoke plausible deniability, which favors causes outside public controls.

Relating PMSCs to Johnson's historical JWT would show that order is not achieved by incentivizing a market that is ambiguous towards differentiating between just or unjust causes. The right intention of the decision-maker, which historical JWT prioritizes over the intentions of individual fighters should be accounted for more extensively due to the possible moral hazard that comes with plausible deniability. These issues are not considered enough in the JWT literature on PMSCs in general, which leads to insufficient conclusions and, more importantly, undermines norms previously believed to be essential in a cosmopolitan framework of peace; private violence has already been accepted and it seems democracy might be challenged next due to PMSCs' utility and deniability.

The financial nature of the market and the Pelagian worldview that informs the norm change leads me to conclude that a principled JWT ought to argue for prohibition, not regulation. Justifying PMSCs in alleged just causes is creating a Frankenstein's monster<sup>3</sup> that might seem noble and just, but turns JWT into an ethics for war, instead of an ethics of war. Its Pelagian origin attempts to eradicate all injustices, contrary to accepting the inevitability of sin. A JWT as such has the inherent characteristic of overturning customs and accepted ethical standpoints, rather than building on their premises, which results in more instances of violence.

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<sup>3</sup> As Rengger would call it (2013)

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