

‘Regulating the Role of PMCs in Shaping Security and Politics’,

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Abstract:

This paper focuses on the way PMCs shape security policies and more generally political priorities. Linking up with classical thinking about “civil-military relations”, it suggests that preoccupation with security professionals’ role in shaping politics is as important when these professionals are privately organised in PMCs as it is when they are enrolled in public armed forces. The paper shows that existing regulation has not been adjusted to account for this fact and that the significance of regulating PMCs’ role in shaping politics is profoundly underestimated. It therefore argues that putting the issue of regulating “civil-PMCs relations” on the agenda is essential.

Chapter 13 – Regulating the Role of PMCs in Shaping Security and Politics

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Over the past decade the scale and scope of PMC activity have both expanded to a degree few believed possible. Charles Moskos for example, writes that “little did I realize when I first proposed a quarter century ago that the military was shifting from an institution to an occupation (the I/O thesis) that private profit making companies would one day actually do military jobs”.¹ This rise of PMCs has triggered considerable discussion about regulation (amongst other things). The problem is not that PMCs are “unregulated”. As the chapters in this volume testify, PMCs are “regulated” by export licensing systems and international human rights law.² PMCs and their employees can be held accountable individually.³ And the armed forces regulate their relations to contractors, as do states.⁴ In fact, industry representatives present during a workshop organized for this volume talked about overregulation and considered themselves burdened by multiple, contradictory, and patchy rules that are often unclear about which administration is responsible when and for what.

One regulatory issue has nonetheless been strangely — and unacceptably — marginal,

¹ Moskos, Charles C. Jr., “Introduction” in Jean M. Callaghan and Franz Kernic (eds), *Armed Forces and International Security: Global Trends and Issues* (New Brunswick and London: Transaction Publishers, 2003), p. 6.

² Caparini and Doswald-Beck in this volume.

³ Taylor in this volume.

⁴ Isenberg and Lehnardt in this volume.

namely the regulation of PMCs's role in shaping understandings of security and politics. Close to nothing has been said or done to adjust existing regulation to the rise of PMCs. Yet, as the first section of this chapter shows, this classical regulatory concern is as real when the "specialists on violence"⁵ shaping politics are "private" and work for PMCs, as it is when they are "public" and enrolled in the armed forces. While elaborate institutional and sociological regulatory frameworks cover the public armed forces' role in shaping security and politics, or "civil-military relations", nothing equivalent has been developed — or is even being contemplated — to cover the role of PMCs in shaping security and politics, or "civil-PMCs relations". As the second and third sections of this chapter show, the institutional regulatory frameworks covering public armed forces generally do not apply to PMCs and sociological regulation is largely dysfunctional. The aim here is to argue that the "realistic" approach to regulation this book strives to develop needs to encompass also this regulatory concern of classical realist thinkers such as Karl von Clausewitz.

The Relevance of a Classical Realist Concern with the Regulation of PMCs

In von Clausewitz's formulation "war is the continuation of politics by other means". The police uses force to impose laws agreed on through a political process. The military defends a national interest that is defined politically. In fact, thinking about the use of force as a prolongation of

⁵ This term is borrowed from Harold Laswell and used because it leaves open the status and organization of security professionals while focusing attention on their specific competence. See Harold Laswell, "The Garrison State" in Jay Stanley (ed.), *Essays on the Garrison State* (New Brunswick: Transaction Publishers, 1997), pp. 55-76 (originally published in 1941 in the *American Journal of Sociology*).

politics is so profoundly anchored that it is often turned into the defining characteristic of a “legitimate” use of force. This is the true not least in the Weberian definition (of the state as the institution with a “monopoly on the legitimate use of force”), where the meaning of legitimate is left open and derives mainly and tautologically from the fact that force is exercised by the state.⁶ There are of course many situations where force is used also by private actors pursuing private interests, rather than as “politics by other means” and the legitimacy of the use of force by states is often strongly contested.⁷ However, when states claim to use force legitimately they claim to do so as a “continuation of politics” by other means.

In these situations the question that arises is: what politics? Whose interests and priorities are served and reflected? Who wins and loses? There is no uncontested national interest.⁸ Different groups and individuals in society always have varying and incompatible priorities and some may have no preconceived political priorities at all but develop these through the process of deliberating with others. Moreover, there is no uncontested understanding of what kind of force (if any) should be used to pursue politics by other means. Also here a political process is at the origin of a common understanding. What politics a specific use of force is the prolongation of is, in other words, defined

⁶ R. B. J. Walker, “Violence, modernity, silence: from Max Weber to international relations”, in David Campbell and Michael Dillon (eds) *The Political Subject of Violence* (Manchester and New York: Manchester University Press, 1993), pp. 137-160.

⁷ It has been pointed out that this relationship does not always hold in complex emergencies and new wars the relationship is arguably inversed: politics is a prolongation of violence by other means. Similarly, force is sometimes used (including on a large scale for no well defined reason).

⁸ Jutta Weldes, “Constructing National Interests” *European Journal of International Relations*, vol. 2, no. 3 (1996), pp. 275-318.

in a political process where different views are brought together and – in Arendtian fashion — a substantive understanding of the common good (or national interest) and how to best defend it is created. This process may encompass a smaller or larger number of voices depending on issues and contexts. There is no reason to suppose that everyone has an equal voice or even a voice at all in the process. Most US security policy, for example, is made in a political process involving a rather narrow set of individuals and institutions. However, it clearly matters whose voice can be heard and is allowed to shape this process.

When it comes to the use of force — internally or externally — a perennial question has been the extent to which the voice of specialists on violence should be heard. The answer is far from straightforward. On the one hand, specialists of violence are a necessary part of the discussion. The reason is their understanding of the technical aspects of the use of force. The specialists on violence knows what can reasonably be obtained by what kind of strategy and at what cost. Moreover, in a long term perspective, specialists on violence know what kind of capacities they need to be develop to face a threat. These insights have to be taken into account when force is used as a continuation of politics. If they are not, decisions may be made to use force for political purposes where it has little or no possibility of being effective. This explains the fear that when specialists on violence are excluded from political processes, civilians may drift into “military adventurism” or abuse security institutions to bolster their authoritarian and repressive regimes.⁹

⁹ Eliot Cohen, “Are US Forces Overstretched? Civil-Military Relations” *Orbis*, vol. 41, no. 2 (1997), pp. 177-186; Kees Koonings and Dirk Kruijt, “Military Politics and the Mission of Nation Building”, in Kees Koonings and Dirk Kruijt (eds), *Political Armies. The Military and Nation Building in the Age of Democracy* (London and New York: Zed Books, 2002), pp. 9-35; Herbert M. Howe, *Ambiguous Order: Military Forces in African States* (Boulder CO.: Lynne Rienner, 2001).

The necessary inclusion of specialists on violence in political processes means that they get a say over politics. They become part of making general decisions about how much to prioritize the use of force as opposed to other political means and goals. They also become part of specific decisions regarding what to do in any given security crisis as well as in defining what constitutes a security crisis.

The crux is how influential the specialists on violence should be in shaping politics. Even if, as just pointed out, their inclusion is essential the flip side of including them is the risk that they (and their concerns) may overshadow other actors (and their views). Precisely because they are specialists on violence, security professionals may take matters into their own hands, using force in the way they consider just and imposing their views on the rest of society. From ancient Athens to contemporary Latin America the fear of military regimes has forced policy-makers to find systems to control and limit the role of specialists on violence in politics. The current status of democracy as the only “legitimate” political system internationally may have alleviated that fear of direct military rule. However, it has in no way solved the question of how to limit the role that specialists of violence play in politics.

This is a concern because the world view of specialists of violence is profoundly shaped by their professional experience (as is that of any professional category). Their outlook consequently privileges security more than would other groups in society, a point well illustrated by General Buck Turgidson in Stanley Kubrick’s classic *Dr. Strangelove*.¹⁰ This is particularly true in crisis

¹⁰ In the film, a general (Jack the Ripper) decides to launch a nuclear war against the Soviets to find the definite solution to the threat posed by fluoride in the water. The bulk of the film focuses on the attempts of the US president to stop a nuclear war. General Turgidson is a military adviser whose obsession with security is caricaturised by Kubrick.

situation where a professional outlook combines with heightened fear and need of vengeance. Hence, von Clausewitz insisted that the independent logic of war tends to become absolute and must be reined in and controlled not to undermine political aims.¹¹ Since specialists on violence retain their professional world views and crises abound, the issue of how to limit the impact of professionals of violence on politics is with strongly present.

The consequence is that the regulation of the role of specialists on violence in the formulation of policies reflects two concerns: one with including and the other with limiting. On the one hand, security experts have an important role to play and therefore need to be included in the political process defining the common good and how to defend it. On the other hand, their presence may stifle or even kill that process and therefore has to be limited. This dual concern applies at least as much to PMCs as it does to other specialists of violence. PMCs are security experts. Professionalism is crucial to industry self-representation. PMCs sell professional security services and they compete on the quality of the services they sell. Moreover, their staff draws on trained security professionals often with a background in public security establishments. PMCs constitute a category of specialists of violence in their own right.

As security professionals it is far from surprising that PMCs are involved in politics. PMCs are pulled into the process as they are consulted in all kinds of security related matters. Sometimes, this consultancy will concern how to best deal with a given political priority. But PMCs are also directly involved in establishing the priorities. They do so for example through their intelligence gathering and analysis as well as through their advisory and educational functions; both of which make PMCs part of the process defining security concerns and political priorities. The role of CACI

¹¹ Carl von Clausewitz, *Geist und Tat. Das Vermächtnis des Soldaten und Denkers. Ein Auswahl aus seinen Werke, Briefe und Schriften von Dr. Walther Malmsten Schering.*(Stuttgart: Alfred Kröner Verlag, 1942), p. 89.

and Titan in the interrogations at Abu Ghraib has come to epitomize the role of PMCs in one form of intelligence gathering. But the firms also provide intelligence through more sophisticated channels. Moreover, military doctrine and strategy is increasingly developed by and spread through private firms. “We make American military doctrine” the head of MPRI boasted with some justification.¹² PMCs run military training, seminars and educational programmes both in the US and abroad. Finally, PMCs and their lobby organizations are increasingly consulted on general policy issues. The industry has e.g. been invited to hearings in Congress on the development of peacekeeping and the development of the situation in Iraq.¹³ PMCs are pulled into politics. They are invited, as specialists, to take part in a variety of discussions of policies. As private specialists on violence they are filling functions similar to those filled by their public counterparts.

More than this, PMCs may actively — on their own initiative and without invitation — seek to influence politics in ways which heighten the regulatory concern. The reason PMCs do this is that their business depends on what happens to political priorities. How a problem is understood and what kind of solution is found for dealing with it, determines whether or not there will be a contract. PMCs therefore have to lobby both for an understanding of problems as security problems primarily and for the specific solution they have to offer. “The leading defence company of the future will be primarily a manipulator of opinions [...] Their key asset is the ability to influence the

¹² Ed Soyster quoted in *The Economist*, 8 July 1999.

¹³ See e.g. Doug Brooks’ *testimony to the House Committee on International Relations* regarding “The Challenges of African Peace Keeping”, 2004 (available at wwwc.house.gov/international_relations/108/bro100804.htm) and Alan Chvotkin’s *testimony to the House Committee on National Security, Emerging Threats and International Relations* regarding “Private Security Firms: Standards, Coordination and Cooperation” (available at reform.house.gov/NSETIR/Hearings/EventSingle.aspx?EventID=45343).

ways in which prospective buyers (governments and armed services) imagine the wars of the future”.¹⁴ It is not surprising to find the International Peace Operations Association (IPOA) promoting a petition demanding military intervention in Darfur or publishing a special issue of its review on Sudan.¹⁵ Both promoted a general understanding of political priorities in Darfur; rather than a well defined role of PMCs. The need to shape broad political views explains the close links between political establishments and PMCs. Persons from the political and military establishment figure prominently on PMC boards. PMCs also figure prominently on the agenda of many policymakers, in some cases too prominently. This is true not only in the US — where Vice President Dick Cheney’s ties to the industry (Halliburton in particular) exemplify the controversy surrounding links — but also elsewhere, including in Belgium, France, Germany, South Africa and Sweden.¹⁶

¹⁴ John Lovering, “Loose Cannons: Creating the Arms Industry of the Twenty-first Century”, in Mary Kaldor (ed.), *Global Insecurity* (London: Pinter, 2000), p. 174

¹⁵ International Peace Operations Association is a lobby organization for PMCs. In 2006 it published a Special issue on Sudan of its *Journal of International Peace Operations* vol. 2 no. 1. For a more detailed analysis see Anna Leander and Rens van Munster, “Private Security Contractors in Darfur: Reflecting and Reinforcing Neo-Liberal Governmentality” *International Relations*, (2006 forthcoming).

¹⁶ In Belgium a series of scandals have linked high ranking politicians including former NATO secretary general Willy Claes to military contractors see e.g. Craig R. Whitney, “Belgium Convicts 12 for Corruption on Military Contracts” *New York Times* (24 December 1998). In France, the “Elf-Affaire” one of France’s biggest corruption scandals ever, involved a range of military contractors (see Eva Joly avec la contribution de Laurent Beccaria, *Est-ce dans ce monde-là que nous voulons vivre?* (Paris: Editions des Arènes, 2003)). Two of Germany’s biggest corruption scandals (the “Flick Scandal” of the 1980s and the CDU party finance Scandal of the late 1990s) both involved arms contractors and senior politicians; see Britta Bannenberg and Wolfgang

In clear, the classical concerns that historically produced the existing regulation of the role the (public) military can play in politics pertain also when PMCs are considered. They are pulled into politics as experts and this in turn opens the question of how their influence can be limited. In chapter eleven, James Cockayne even asks whether PMCs do not at times cease to be agents of a principal and become agents in their own right. Since this is neither secret nor news, one might have expected the rise of PMCs to trigger a revisiting also of civil-military regulation or more appropriately of the regulation covering the role of “specialists on violence” in shaping political priorities. However, as the two subsequent sections will show, this has not happened. Whether regulation is narrowly thought of as an institutional set up or conceived in broad sociological terms as resting mainly on the manipulation of institutional culture, existing forms of regulation have little impact on PMCs and there is little sign of efforts directed at altering this state of affairs.

The Underdeveloped Institutional Regulation of PMCs’ Role in Politics

A first way of conceiving the regulation of the role of specialists on violence in politics is in terms of an institutional regulatory framework set up for that purpose. There is a well established tradition

J. Schaubenstein, *Korruption in Deutschland. Portrait einer Wachstumsbranch* .(Munich: Beck, 2004). In South Africa, a string of scandals have tied ANC politicians to arms producers/exporters including the 2001 scandal involving the European Aeronautical Defense and Space Company (see e.g. <http://news.bbc.co.uk/2/hi/africa/1266950.stm>). In Sweden the links between Bofors and the Swedish government have often been contested and some speculate in links between these ties and Palme’s assassination. The firm is also known for its alleged involvement in bribing Indian officials (e.g. <http://en.wikipedia.org/wiki/Bofors>).

for regulating the role of specialists on violence. However, this regulation is largely inapplicable to PMCs because it assumes that the relevant specialists on violence are members of public armed forces. But even if PMCs were to be covered by existing regulation, it would fail to make a dent since — by and large — it misses its target. PMCs engage in politics by other channels than public armed forces and they increasingly do so in forums other than the classical Clausewitzian one.

An institutional regulatory framework is no doubt what most observers associate with the regulation of civil-military relations, in the sense of the role of specialists on violence in shaping politics. It certainly is the notion of regulation that is promoted by most international institutions concerned with the reform of military establishments and security sectors such as the Geneva Centre for the Democratic Control over Armed Forces (DECAF). The most common underlying rationale is that there are two partly contradictory “imperatives” in society: a functional military one imposed by the needs of an efficient defence and a societal one imposed by the values, institutions and ideologies of a society as Huntington formulated it.¹⁷ Both imperatives are important but they are often incompatible. They therefore have to be protected and insulated from each other and their interaction controlled to reduce the risk of one sphere impinging on the other. The resulting regulation is one where strict settings, rules and procedures serve to delimit the respective roles of military and civilian institutions and channel their interaction. The overall concern is to ensure that the military has primacy in ruling itself — that it enjoys professional autonomy and independent leadership — and inversely that civilians rule society and politics.¹⁸

¹⁷ Samuel P. Huntington, *The Soldier and the State* (Cambridge: Harvard University Press, 1957).

¹⁸ Michael C. Desch, *Civilian Control of the Military. The Changing Security Environment* (Baltimore and London: John Hopkins University Press, 1999).

There is substantial disagreement about how these institutions should look as well as strong contextual variation in the form regulatory institutions and practices actually take. However, some aspects of this regulatory set up recur. The first is an effort to channel and effectively de-limit the context in which security professionals can take part in political debates. Most countries have well defined institutional arenas where the armed forces can be consulted and asked to express their views. It is characteristic that these tend to be concentrated with the executive branch of government, which is also more often than not given primacy in deciding on the use of force. Contact between the military and the legislative bodies (e.g. the armed forces and Congress) tends to be both less frequent and designed to allow one way questioning (e.g. Congressional hearings) rather than to give security professionals the opportunity to participate in the formation of political priorities. The participation of specialists on violence in other words tends to be conceived in strictly and well defined consultative terms.

Second, contributing to restricting the role of specialists on violence in politics are the formal and informal restraints imposed by the armed forces on the public conduct of their members. Most armed forces have their own formal rules for when and how any of their members may take a public stance and discuss political matters. Military hierarchy typically places strict limits on who within the armed forces can even imagine taking part in a public discussion, particularly if doing so entails questioning the positions of those higher in the hierarchy. But even more significant are the informal norms that regulate behaviour. Unwritten rules about acceptable behaviour place severe constraints even on those at the top. When, before becoming secretary of state, General Colin Powell wrote opinion pieces in the *New York Times* and gave interviews on issues such as whether the West should intervene militarily in Bosnia, he was perceived as violating an unwritten code of

conduct.¹⁹

A final recurring aspect of the regulation of the role of specialists of violence in politics is that it tends to be marked by a distance to broad (democratic) and political debates. The fact that the institutional regulation of security professionals' role in politics places them in a mainly consultative role, focussed on the executive also keeps them at arms length from general public debate. The term "democratic deficit" is consequently one that appears with frequency in discussions about the political processes surrounding the use of force. Parliaments and publics have little insight and correspondingly limited possibilities to hold decision makers and security professionals accountable for their decisions and acts. The rapid growth in multi-lateral operations accentuates (or "doubles"²⁰) the democratic deficit. By making international institutions, other governments, and military alliances central they move parliaments and publics even further away from the discussions of policies.

This institutional set up with its double democratic deficit is ill-suited to address the challenge of regulating the role of PMCs. Most of it is simply not applicable to PMCs at all. The basic assumption in the bulk of existing regulation is that the security professionals whose influence on politics requires regulation belong to the public armed forces or are indirectly controlled through the public armed forces. This assumption makes historical sense in view of the progressive nationalization of most functions in the armed forces in the twentieth century.²¹ However, it is not

¹⁹ Desch, *Civilian Control*, p. 29.

²⁰ Hans Born and Heiner Hänggi, eds. *The 'Double Democratic Deficit'*. Geneva: (Ashgate / The Geneva Centre for Democratic Control of Armed Forces, DCAF), 2004.

²¹ Anna Leander, *Eroding State Authority? Private Military Companies and the Legitimate Use of Force* (Rome: Centro

adequate in a situation where PMCs have taken over many tasks conventionally defined as military, including tasks where the companies act independently of the armed forces.²² Contracts for training, logistics, institutional reform, intelligence, and consultancies often directly involve the firms establishing policy priorities. Yet, guidelines regulating this role are inexistent because PMCs are not the public armed forces.

When it is decided that no less than half of the financial resources earmarked for post-conflict reconstruction in Liberia should go to DynCorp for training 2,000 soldiers, no institutional mechanism has regulated the role of DynCorp in making this project a priority as compared with demobilization, judicial reform, education, healthcare, infrastructure repair, or civil society development.²³ There has been no clear institutional arena for the discussion between the public administration and DynCorp, there are no institutional restraints from without the company limiting its participation in discussions and probably even fewer institutional restraints from within. One would expect the company to organize the promotion of this specific project and encourage employees to use the full variety of channels available to them to do so. On this issue, as on so many others, the rules establishing the form and forums for consulting the specialists on violence are not applicable because the specialist is not a member of the public armed forces and hence is

Militare di Studi Strategici, 2006).

²² For the discussion of this Major Michael E. Guillory, "Civilianizing the Force: Is the United States Crossing the Rubicon?" *The Air Force Law Review*, vol. 51 (2001), pp. 111-150. Major Lisa L. Turner and Major Lynn G. Norton, "Civilians at the Tip of the Spear" *The Air Force Law Review*, vol. 51 (2001), pp. 1-45; Lieutenant Junior Grade David A. Melson, "Military Jurisdiction over Civilian Contractors: A Historical Overview" *Naval Law Review*, vol. 52 (2005), pp. 277-320.

²³ Francis W. Nyepon, "Liberia: Engaging U.S. Foreign Policy for Development" *All Africa*, 29 January 2006.

covered neither by the norms and rules pertaining inside the forces nor by those imposed on the armed forces from without.

Not only are existing rules mostly inapplicable. More seriously even if they were reformed and extended to cover also PMCs, they would miss their target and consequently be largely ineffective. One reason for this is that existing regulation is aimed at channels and forms of influence that are largely irrelevant to PMCs. Even if most of the staff of PMCs is trained in the public armed forces, even if the market for military services is profoundly shaped by public policies, and even if governments and public institutions remain key buyers of PMC services, PMCs are, as they adamantly insist, private companies. This alters their relationship to politics and to the formation of political priorities rather substantially. Like other private firms, PMCs treat lobbying and advertisement as a normal and accepted business strategy and naturally promote their views with administrators, policymakers, and the public at large. It is not surprising to find Chris Taylor (of Blackwater) giving speeches in various contexts arguing that Blackwater could offer a more efficient alternative to AU or UN peacekeeping and therefore should be sent to Darfur.²⁴ The PMCs' private sector approach to politics makes most existing institutional regulation miss the key channels by which PMCs take part in policy-making. PMC influence on the process is more likely to be affected by general rules regarding lobbying and public debate than by the regulation of specialists on violence in the politics. The question is whether this is enough.

A further reason why the regulation of specialists on violence in politics is likely to remain ineffective (even if extended to PMCs) is that it addresses the wrong arena of politics. Much of the contemporary politics surrounding the use of armed force does not take place in the traditional

²⁴ Remarks by Chris Taylor, Vice President for Strategic Initiatives at Blackwater USA, at George Washington University 28 January (available at www.blackwaterusa.com/btw2005/articles/042805taylor.html).

Clausewitzian arena involving the home state, the people and armed forces as the key actors. Rather, military operations are internationalised, involving other governments, military alliances and international institutions. This development moves politics beyond conventional state boundaries and creates new regulatory challenges for public armed forces (including the “double democratic deficit” mentioned above).

More than this, existing rules work on the assumption that specialists on violence work under the auspices of their home state. This does not hold for PMCs. They can and do work outside the control of their state and for non-state actors in ways that public armed forces rarely do. They work internationally for a variety of public actors on their own initiative and hence push for shifts in the political priorities both in the places where they work and at home in relation to these places. Public armed forces sometimes pursue politics of their own and shift national priorities. For example, during the second Cold War part of the Swedish Armed Forces acted on their own initiative and outside of parliamentary control to consolidate collaboration with NATO and make defence against the threat from the Warsaw Pact a key political priority.²⁵ However, this kind of independent behaviour on behalf of public armed forces is a serious breach of norms and certainly not openly practiced as a rule. With PMCs matters are different. PMCs sell their services on a market to a variety of buyers with whom their home state may or may not have a military alliance. This independence is sometimes a sham as governments use PMCs to circumvent policy restrictions and plausibly deny responsibility.²⁶ But often the industry is competing in international markets,

²⁵ Ola Tunander, *Hårsfjärden - Det hemliga ubåtskriget mot Sverige*.(Stockholm: Stockholm: Norstedts, 2001).

²⁶ Krahan in this volume.

and is treated as if it were, by its home government.²⁷

Consequently firms may lobby for contracts within the frame of UN or the AU peace keeping operations directly with these institutions and on their own initiative. They work for foreign governments independently of whether or not their home government has initiated this collaboration. Some PMCs, such as MPRI, underline that they will only accept contracts acceptable to their home state, but then what is acceptable can be influenced by the firm.²⁸ Other firms, such as Blackwater, simply vow to work only for “legitimate” clients, leaving the definition of legitimate conveniently open. The point is that the firms do work independently of their home governments. This shifts the location of the establishment of political priorities to places, channels and issues not covered by existing institutional rules.

Finally, it is not only the location of politics that is changing but also the actors involved. Private contractors work not only for public actors — such as states, military alliances, and international organizations — but also for private actors, including NGOs, individuals, and other firms. These contracts mostly fall into the category of “security” contracts and, since they are made with non-state actors, they are often assumed to have little relevance for politics and to be less contentious. But this assumption is not warranted. For example, guaranteeing the security of a firm or an NGO in a war zone often amounts to taking sides in the conflict. It secures resources for one side and stops the advance of the other. This explains the Darfur rebels’ demand that all oil

²⁷ Foreign and Commonwealth Office, *Private Military Companies: Options for Regulation*. (London: available at www.fco.gov.uk/Files/kfile/mercenaries.0.pdf, 2002).

²⁸ As when MPRI lobbied to be allowed to take on a contract upgrading Equatorial Guinea’s coastal guard. Peter W. Singer, *Corporate Warriors. The Rise of the Privatized Military Industry*.(Ithaca and London: Cornell University Press, 2003), p. 196.

extraction should be halted in Sudan until the end of the conflict.²⁹ Moreover, when actors with opposing interests in a conflict hire security firms, the effect may be to prolong or aggravate the conflict.³⁰ This is the reason Abdel-Fatau Musah worries that “the return of proxy wars could become a nightmarish reality where well-equipped foreign private forces are allowed to continue propping up opposing parties in today's conflicts.”³¹ Lastly, security provision to non-state clients is sometimes intended to alter political conditions as illustrated by the ill-fated coup in Equatorial Guinea.³² The blurred distinction between security and military services in many contemporary conflict situations³³ means that the institutional regulation covering the role of specialists in violence in public debate would have to be substantially revised. It would have to be adjusted to politics involving, not only foreign governments and international institutions, but also private firms and NGOs. In clear, existing rules are all the more likely to miss their target as PMCs work with actors that (just like the firms themselves) are not covered by existing regulation.

The institutional framework covering the role of specialists on violence in security policies

²⁹ Sylvain Besson, *Malgré les tueries, une firme basée à Genève prospecte au Darfour* *Le Temps*, 25 August 2005.

³⁰ UN, *Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo (S/2001/357)* (New York: UN Security Council, 2001).

³¹ Adel-Fatau Musah, “Privatization of Security: Arms Proliferation and the Process of State Collapse in Africa” *Development and Change*, vol. 33, no. 5 (2002), p. 928.

³² BBC, “The Men Behind the 'Guinean Plot'”, *BBC Online News*, 13 March 2004.

³³ Often it matters more for the difference in connotations than for differences in substance. At the meeting preparing the publication of this book, an representative from a private firm argued that there were no Private Military Companies (since the closing down of EO); only Private Security Companies.

is, to say the least, underdeveloped when it comes to regulating the role of PMCs in shaping security and politics. The existing framework is designed to cover public actors exclusively. But more seriously it is ill-suited to cover the key forms of PMC participation in politics as well as the key arenas where this politics is taking place. Arguably, the problem is a longstanding one. In 1961 the U.S. President Eisenhower focussed his farewell speech on it. He pointed out that “in the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist”.³⁴ However, that a problem is old does not mean that solutions are available. In this case finding solutions is not even on the agenda. Little effort has so far gone into updating the -- mostly inapplicable but also outdated and therefore ineffective -- rules covering the role of security specialists in politics to the emergence of PMCs.

A Dysfunctional Sociological Regulation of PMCs Participation in Politics

Institutional regulation is not the only way of shaping and controlling the presence of specialists on violence in politics. There is a sociological alternative. Instead of assuming that what is needed is a separation of spheres regulated by institutions, this alternative tradition argues for what Morris Janowitz termed a “compatibility of values” between the military and society. A common political culture is the guarantee that security professionals will be present in politics without dominating it. As institutional regulation, this kind of “regulation” exists in most countries. However, not only is it

³⁴ President Dwight D. Eisenhower, *Farewell Address* (Available at www.eisenhower.utexas.edu/farewell.htm).

ineffective when it comes to dealing with PMC, it is dysfunctional. The direction of regulation is reversed. PMCs seem to have more impact on public debates and values — including those in the public armed forces — than these have on the PMCs.

The sociological tradition departs from the view that, ultimately, formal regulation and institutional rules are less important than is the “compatibility” of the culture in society and large and in the military. Formal regulation can never guarantee that the role of security professionals is positive. Only a basic shared world view can. The idea of a “constabulary force” is a classical illustration of this line of thinking. The general idea is that the armed forces would be capable of evolving with society and adjusting to it: the “military establishment is continuously prepared to act, committed to the minimum use of force, and seeks viable international relations, rather than victory, because it has incorporated a protective military purpose.”³⁵ This requires strong ties between the military and the civilian worlds. The sociological tradition does not suggest blurring the distinction between military and civilian society nor does it deny the Huntingtonian functional and societal imperatives.³⁶ However, instead, of focusing on institutional rules of interaction, the sociological tradition highlights organizational structures, values and identities in the military.³⁷ It

³⁵ Morris Janowitz, *The Professional Soldier: A Social and Political Portrait*.(New York: Free Press, 1971), p. 148 and Morris Janowitz, “Toward a Redefinition of Military Strategy in International Relations” *World Politics*, vol. 26, no. 4 (1974), pp. 473-508.

³⁶ On the contrary, Janowitz underlined that blurring the lines might undermine military functionality and lead to “new forms of militarism” in society. See Morris Janowitz, “Military Elites and the Study of War” *Conflict Resolution*, vol. 1, no. 1 (1957), p.18.

³⁷ Morris Janowitz, “Changing Patterns of Organizational Authority: The Military Establishment” *Administrative Science Quarterly*, vol. 3, no. 4 (1959), pp. 473-493.

focuses on *what* is said and done rather than the institutional channels and forums *where* it is said and done.

The sociological perspective on PMCs' role in politics, consequently, focuses on whether recruitment, training, advancement, hierarchies, and identities in the military produce values compatible with those in society or, alternatively, on how they could be reshaped to do so. As with institutional regulation, the aims, forms, and praxis of sociological regulation have varied considerably. Countries differ in their understanding of their armed forces and their role not only in public debate but also in society.³⁸ Integrating minorities, homosexuals, or women into the armed forces is both a way of ensuring that the armed forces reflect society and a road for these groups to claim full citizenship.³⁹ Moreover, armed forces also have varying institutional cultures and pasts. Consequently, the issues and forms of sociological regulation vary considerably. In Germany, the 1933-1945 legacy has created a military culture where individual responsibility and the limits of authority are essential which has no equivalence in France. Inversely, in France the focus on representation and on the integration of the "*beurs*" [French citizens of Maghrebi origin] has no equivalent in Germany. It is hence neither surprising that states regulate the links between armed forces and society sociologically, nor that they do so in highly diverging ways. The question is how this "sociological regulation" works with regard to PMCs. Allowing for wide contextual variation, the answer is unsettling.

³⁸ Anna Leander and Pertti Joenniemi, "In Conclusion: National Lexica of Conscription" in Pertti Joenniemi (ed.), *The Changing Face of European Conscription* (London: Ashgate, 2006), pp. 151-162.

³⁹ Ronald Krebs, *Fighting for Rights: Military Service and the Politics of Citizenship* (Ithaca: Cornell University Press, 2006).

To some extent PMCs are affected by public attempts to socially regulate specialists on violence. States shape PMC culture and behaviour from the outside for example by establishing compulsory vetting procedures, by restricting acceptable activities and by buying services only from firms that behave according to specified standards. In addition to this, public armed forces may influence PMCs through the close links between these institutions: PMCs may incorporate the organizational culture, values, and priorities of the public armed forces. These indirect processes may be reinforced by states treating PMCs as legitimate actors, inducing them to act as if they were. These mechanisms taken together could make existing sociological regulation (in a slightly updated and adjusted version) a good basis for regulating PMCs. In fact, PMCs could become a vehicle for socializing a variety of specialists on violence into a (publicly sanctioned) professional military culture. They could “draw more actors into the prevailing system of social norms”.⁴⁰ However, there is little evidence that this is what is currently going on.

Rather PMCs see to be developing a variety of corporate cultures and value systems independently of each other but also largely outside the influence of public institutions (armed forces and states). Consider, for example, the impact public institutions may have on the values in PMCs through their influence on recruitment. The firms first and foremost recruit staff according to their own preferences and needs. Many PMCs recruit globally. As a consequence no government is likely to know the details of the staff recruited. Moreover, since many PMC employees have worked in a variety of countries and conflicts, it is difficult to imagine that black-lists held by any one actor would be helpful. Vetting procedures as well as self-regulatory blacklists aimed at

⁴⁰ Deborah Avant, *The Market for Force: The Consequences of Privatizing Security* (Cambridge: Cambridge University Press, 2005), p. 49.

controlling recruitment depend on the reporting of a wide range of actors.⁴¹ Finally, only a limited numbers of firms would be likely to abide by procedures and report to blacklists in the first place. Even fewer would be likely to do so for all kinds of contracts. Finally, only a limited numbers of firms would be likely to abide by procedures and report to blacklists in the first place. Even fewer would be likely to do so for all kinds of contracts. Vetting procedures, blacklists and the like are therefore likely to be of circumscribed effectiveness at best. The more realistic scenario is that PMCs continue recruiting according to patterns over which governments and armed forces have little say. The example of recruitment illustrates a more general point: namely that there is little possibility for the public to shape the corporate culture developing in PMCs. Even if most established firms adhere to codes of conduct,⁴² they do this if, when, and as they decide to.

More fundamentally, it is not clear that PMCs' organizational culture is converging with the professional culture of public armed forces, promoted by states. This observation concerns not only marginal firms, but also large respected ones as starkly illustrated by the Aegis "trophy video" posted on the internet.⁴³ Obviously, similar videos could have been posted by members of the public armed forces. The difference is that in the public armed forces there is an institutional culture of sanctioning this kind of behaviour. There are mechanisms not only to reprimand such occurrences, but also for detecting them and preventing non-accepted sub-cultures to develop. It is

⁴¹ Both kinds of measures are currently under discussion in different contexts.

⁴² IPOA, "Armorgroup: Standards and Code of Ethics. Q&A with Jim Schmitt" *International Peace Operations Association Quarterly*, vol. 1, no. 4 (2005), pp. 5-7.

⁴³ In this video, Aegis employees filmed their shooting at civilian cars while driving on an Iraqi highway, added music and began circulating it.

far from clear that PMCs (including large ones such as Aegis) have anything equivalent to this nor is it clear that any attempts are made to impose it on the firms. It therefore seems far more likely that PMCs will continue to develop their own (diverse) subcultures than that they will draw a variety of security professionals into a publicly sanctioned professional culture.

This seems all the more unlikely since, at present “sociological regulation” seems to be working at least partly in “reverse”. Rather than making values in the military compatible with the values in civil society, the rise of PMCs seems to have the effect of making values in civil society compatible with those of the military or more correctly with those of the PMCs. PMCs work in competitive markets. They compete for contracts and market shares. This competition requires marketing products and creating demand. There is no need for conspiracies or immorality to explain PMCs’ struggle to shape understandings of politics. The context in which they do so is one where private business and market solutions generally have a positive connotation.

There are indications that this is resulting in an increasing acceptance of PMCs and their worldviews in a variety of social spheres.⁴⁴ For example, in development thinking and actual development programmes, security holds an increasingly central position and PMCs services are valued. Public and private aid agencies hire PMCs for security. They also rely on PMCs and former PMC employees for tasks that are not directly security related such as monitoring human rights or implementing non-security related development projects.⁴⁵ Perhaps most surprisingly, PMCs seem to be fashionable, quite literally, as Paris fashion stores carry Blackwater gear and the Internet

⁴⁴ Anna Leander, “The Power to Construct International Security: On the Significance of Private Military Companies” *Millenium Journal of International Studies*, vol. 33, no. 3 (2005), pp. 803-826.

⁴⁵ For examples, see the Special issue on Sudan of *Journal of International Peace Operations*, vol. 2 no. 2 (2006).

is buzzing with sites, blogs, and lists relating to PMCs.⁴⁶

It would be an exaggeration to claim that PMCs have gained general authority over security matters. However, the prospect that the values of PMCs permeate society raises Harold Laswell's concern that we may be "moving toward a world of 'garrison states' — a world in which the specialists on violence are the most powerful group in society".⁴⁷ The worry in this world is not that specialists on violence take matters into their own hands. Rather, it is that their world view and understanding of problems becomes so dominant and so widely accepted that others take it for granted. The political costs of such developments are high. It limits the scope for thinking through options for international diplomacy and politics. But it also reflects inwards and limits national freedom and the scope for politics.⁴⁸ The costs are potentially so enormous that, at the height of the Cold War, Laswell found it "inadequate to say that the dominant crisis of our time is socialism *versus* capitalism. More correctly, it is socialism *and* capitalism *versus* the garrison-prison state".⁴⁹

The "sociological regulation" of PMCs' role in politics is, to sum up, ineffective at best but more probably dysfunctional. It is ineffective because PMCs' organizational culture largely escapes control and manipulation not from only of the civilian public authorities but more generally also from public armed forces. Sociological regulation may even be working in reverse as the private

⁴⁶ Elliot West, "Paris Fashions Include Dior, Gucci and ... Blackwater" *Raleigh Chronicle* (8 August 2006).

⁴⁷ Laswell, "The Garrison State", p. 56.

⁴⁸ For classical statement, Hannah Arendt, "What is Freedom?" in Hannah Arendt (ed.), *Between Past and Future. Six Exercises in Political Thought* (London: Faber and Faber, 1958), pp. 143-172.

⁴⁹ Harold Laswell, "The Universal Peril", in Jay Stanley (ed.), *Essays on the Garrison State* (New Brunswick: Transaction Publishers, 1997), pp. 117-126 (originally published in 1950), p. 119.

actors are increasingly prone to shape worldviews and values both in the (public) military, in the state and in society at large. PMCs may hence socialize actors into an existing system of norms, but there is little empirical or theoretical evidence that it would be the system of the professional public forces. It seems more likely to be the highly varying system of norms prevailing in the PMCs and the market for force which is a substantially different thing. More strongly, the section has made the point that the sociological regulation may be dysfunctional since the dynamics of the market for force tends to reverse sociological regulation: societal and political values are made compatible with those of specialists on violence; not the other way around.

Conclusion

In their introduction to this volume, the editors of this book make the valid assessment that the “abolitionist” stance on regulating PMCs is increasingly rare. They draw the pragmatic conclusion that what is needed is a “realistic approach to regulation”. This chapter showed that a central aspect of regulation in the “realist” approach: namely the regulation of the role of specialists of violence in politics, has remained marginal in the discussions surrounding PMCs. This is not because it is unimportant or irrelevant. On the contrary, the political processes establishing for what purpose what kind of force is used are fundamental and PMCs do take part in them and do shape them. Yet, the present context is not only one where the abolitionist stance on regulation has disappeared. It is also one where PMCs are increasingly present as a new cast of efficient, competent, and apolitical security experts. In this context, the concern with regulating the way PMCs (as specialists on violence) shape politics is readily swept aside and forgotten.

This chapter has argued against this neglect but it has not proposed a blueprint for action for the simple reason that there can be no general blueprint. Views on the role of specialist of violence in politics differ as profoundly as do the institutional context and history of civil-military relations. Moreover, the multiplicity of arenas, actors and issues defy simple common blueprint solutions. No one blueprint could possibly inform regulation of the role PMCs play in political processes as diverse as those surrounding a UN intervention, Liberian reconstruction, the US presence in Iraq, and the Chinese oil company Clivden's operations in Sudan. This said, even if there can be no general blue, the elaboration of viable contextual regulation remains of essence.