

What the research on PMSCs discovered and neglected: An appraisal of the literature

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Abstract: More than 15 years ago a new debate was opened discussing an emerging phenomenon: Private Military and Security Contractors (PMSCs) in and around conflict zones. Initially focussed on the actions of a number of notorious companies, the field matured rapidly and created a lively debate on how to accommodate these actors in military and democratic institutions. This paper has a dual purpose. First, it offers a more traditional appraisal of the literature, and past research priorities (which questions were asked, and which fields/cases received most attention?). Second, it offers a critical reflection on the state-of-the-art, and argues that the strong preference for studying regulation, control, and accountability, and PMSCs working for the USA/UK, has limited our understanding of the scope of the problem, its antecedents, and the implications beyond those directly related to regulation and control. Highlighting a recent, critical wave of scholarship I discuss the headway that can be made by studying: a) the commercialisation of defence beyond the usual suspects; b) outsourcing in conflict zones beyond the nation-state, and; c) questions beyond those directly related to regulation, control, and accountability.

Keywords: Military outsourcing, private military and security companies, literature appraisal, past research priorities, road ahead.

Within the fields of International Relations and Security Studies the debate on private, for-profit organisations in the realms of military and security re-opened in 1998 with the publications of Herbert Howe, Kevin O'Brien, and David Shearer.¹ Notably distinct from earlier research into the defence industry and economics, the primary focus is not the production and procurement of hardware, but the procurement and delivery of *services* such as training, base support and facility management – also in conflict zones – and the provision of both mobile and static military security that might require the use of force. From the first publication onwards it is often pointed out that the use of private soldiers is nothing new – in fact Howe already recalls Machiavelli's warning from the early 16th century calling mercenaries “useless and dangerous”.² Even though it is clear that times have changed, and that the private military and security companies (PMSCs) we discuss today are distinct from the branch of mercenaries that supported pre-modern armies and warfare, the debate fired up by the (re-)entrance of private enterprise in conflict zones is still predominantly informed by questions related to the merits of the use of contractors, their reliability, legality, and their position in relation to the sovereign (nowadays; the people).

This paper has a dual purpose. First, it provides a more traditional survey of the literature from 1998 to 2014, highlighting the headway made in studying and understanding this relatively young phenomenon, and the ways in which the use of PMSCs, and outsourcing in conflict zones evolved. I discuss the most important theoretical arguments, and research foci: What are the major theoretical considerations and propositions? And, where does most systematic and anecdotal evidence come from? Such a review, I believe, is valuable in and off itself because it summarises the topics and cases studied, and facilitates reflections on the state-of-the-art. The survey consists of quantitative and qualitative elements. The quantitative elements serve to explicate the most common research foci, and are based on a more systematic analysis of the literature, the details of which (the selection of the publications included, and their categorisations) are elaborated upon in the next section of this paper. The figures are included to offer an overview of the research foci at a glance, and, importantly, to quantify the different research priorities and their relative prominence in the literature. The qualitative, more descriptive parts, support the quantitative elements by further explaining the research foci, and serve as a broader overview and description of the research field.

Second, it offers one such reflection on the state-of-the-art itself by identifying and quantifying two research foci, one substantive and one geographical, that have dominated the literature between 2003 and, roughly, 2012, and by elaborating on the unintended consequences these research priorities had for our understanding of the scope, growth, and implications of the industry. Regarding the substantive research focus, I will show that research strongly favoured inquiries into the regulation, control and accountability of PMSCs and the use of force. Regarding the geographical focus, I will show that research prioritised positive case studies, and thereby focused largely on only two cases: The USA and UK. I critique the often uncritical use of the categories 'Western', 'strong' and 'rich' states, and argue that we, however understandable these prioritisations are, overlooked a number of implications, and underrepresented some elements that may prove vital for states' outsourcing considerations, NATO policy, and beyond. The second aim of this paper is thus to convey a need for differentiation, and to argue that progress can be made by studying: a) the commercialisation of defence beyond the usual suspects (the USA and UK); b) outsourcing in conflict zones beyond the nation-state, and; c) questions beyond those directly related to regulation, control, and accountability.

Although this paper is not the first to point towards these research priorities,³ it is the first to quantify them, show their relative dominance in the literature, and explicitly discuss the implications of these foci for our understanding of PMSCs and the commercialisation of defence. The relevance of problematising these narrow foci lies in the fact we currently cannot say to what extent other (Western) countries face problems similar to those the USA and UK experienced, or whether they are dealing with different questions in relation to different aspects, types and extents of outsourcing in conflict zones. If other states and policy makers are struggling with different (political and/or ethical) questions, then enhancing our understanding of the implications of the commercialisation of both front and rear-support functions may prove vital for the considerations of these states. Hence, studying in more detail the labour conditions and standing of Third Country Nationals working in security and rear-support functions, contracting by organisations such as NATO and the UN, and studying questions of gender and (re-)gendering, and image and imaging, can increase the relevance of our findings to a broader group of states, and other non-state and intergovernmental actors.

Below I first briefly detail the methodology of the quantitative elements of the survey, presented in figures 1-5. Afterwards, this paper will follow the changes and developments in the literature and start with a survey of the early literature on military contracting by weak states, thereafter shifting to the most prominent stream in the literature that focused on questions relating to the regulation, control and accountability of PMSCs employed by the USA and UK. The last section discusses the consequences of these relatively narrow foci, appraises the latest, more critical wave of research, as well as reflects on the importance of further differentiating the substantive and geographic foci.

The quantitative analysis

The quantitative elements in this review show the distribution of 111 publications published from 2003 until 2012 on outsourcing in conflict zones and PMSCs on three matters: their explanation of the growth of the private military and security industry, their substantive research focus, and their geographical focus. Here I briefly elaborate on how this analysis was conducted, which publications are included, and how the categorisation took place. Importantly, a full list of the publications included, and their categorisations will be made available upon request.

First, I derived at the selection of publications by entering neutral terms into the Google Scholar and Web of Knowledge search engines, and selecting all English language publications in scientific journals, as well as scholarly books and edited volumes. With 'neutral terms' I mean terms such as: 'the privatisation of force', 'private military and security company', and 'military outsourcing'. I did not add specifications such as 'and international law' or 'in Africa'. I did not include publications of Think Tanks, NGOs and IGOs, and publications in different languages than English as this would have introduced selection biases towards the institutions I know, and languages I speak. Due to search engine algorithms and other factors I cannot guarantee that the selection took place a hundred percent unbiased, and at random. Nor is the selection exhaustive. However, with 111 publications included, I believe the sample to be sufficiently large to form a decent representation of the literature.

Second, I scored all publications included on: 1) the explanations they offered for

the increase in the outsourcing of military and support functions; 2) the countries they draw their systematic or anecdotal evidence from, and; 3) their *primary* substantive focus. In the cases of the first and second, all arguments offered and countries studied are included as separate counts: If a publication offered three different arguments for the growth of the industry all three are included, and if it studied two different cases both are included. It is therefore that the 'N' of for instance figure 3 exceeds the number of publications included in the analysis; the distribution shows all individual mentions of an argument, as a proportion of the total number of arguments found in all publications. In the case of the third (the *primary* research focus), each publication was given only *one* score based on the answer to the questions: What is the principal aim of the publication? Which main question does the publication *p.324>>* answer? Naturally some publications, especially books, start with a broader introduction, and briefly touch upon multiple issues. Nonetheless, scores were only given to the primary aim or argument, which, in most cases, is clearly stated by the author(s).

I derived at the categories inductively. By which I mean I looked at and summarised the arguments 'out there', before creating the categories. Logically, a number of publications could not be subsumed under the categories, and are therefore included in the category 'other'. This was done if the publication had a research focus (either substantive or geographic) that did not feature more than once in the period under review. Moreover, I decided not to plot the distribution of the post-2011 literature, because the substantive and geographic diversity proved difficult to capture in a single, comprehensible graphic.

To give an impression of the categorisation of the publications included, the table below shows the categorisation of one publication: Deborah Avant's, 2005 book '*The Market for Force. The Consequences of Privatizing Security*'.⁴ Naturally not all publications were as easy to categorise, and I apologize for any omissions and misrepresentations.

Focus	Categorised as studying/including:
Substantive focus	<i>Control:</i> "Why should we worry – or even care – about this market? The answer is simple, private security may affect how and whether people can control violence. [...] Does the privatization of security undermine state control of violence?" (p. 3)
Geographic focus	Sierra Leone, South Africa, Former Yugoslavia (Croatia), USA , and UK.
Explaining PMSCs	- Availability of military supplies and personnel (on p. 30) - Increased demand due to Western unwillingness to intervene (on p. 31) - Spead of neoliberalism (on p. 35) (Avant mentions the changes in threat environment and techonological advancement, but negatively. She argues: "The fact that global trends demonstrated a mismatch between security concerns and national military institutions, however, did not necessitate privatization" (on p. 34).)

Table 1 – Categorisation example

From the African continent to the 'Western democracies'

The early literature on PMSCs seems to be born out of contestation: It was an immediate reaction to, and problematisation of, the activities of Executive Outcomes (EO) and Sandline International in most notably Sierra Leone and Angola. The first publications almost exclusively look at the activities of these two notorious companies and their impact on African security.⁵ It is interesting to note that most publications were rather critical of this new emerging form of “corporate mercenarism”,⁶ and with hindsight we can say that EO and Sandline were probably the only companies that can accurately be called private *military* companies.

It is therefore understandable that the initial focus on outsourcing by weak, mostly African states, correlates with a focus on the emerging private military industry and PMSCs (see figures 1 and 2). Most (58%, see figure 1.a) of the early publications introduce or analyse the make up of the industry and the dominant military companies. These publications are mostly descriptive, problematising the re-entrance of private forces in battle spaces, and describing this emerging phenomenon.

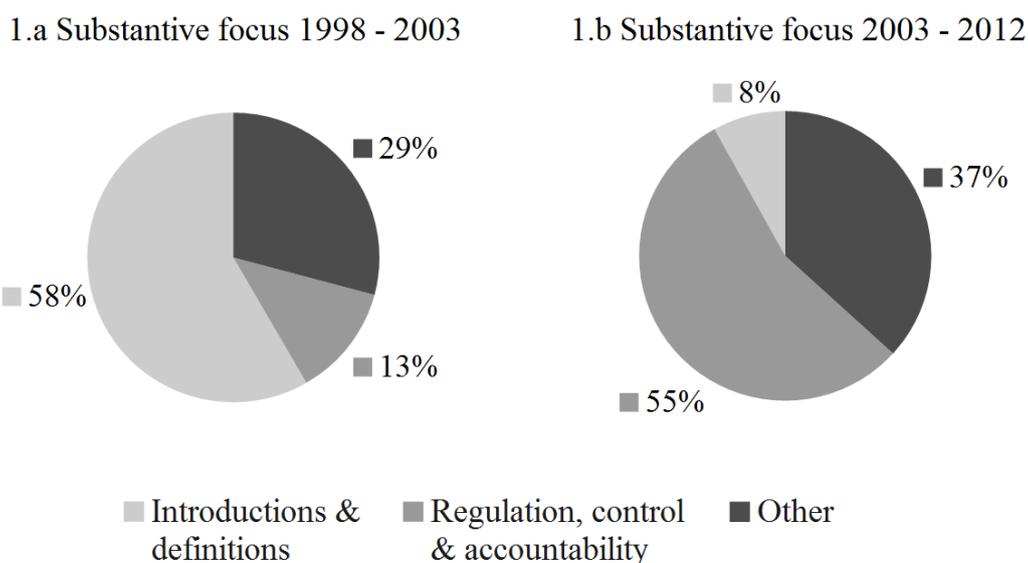


Figure 1 – Research focus on 'introductions & definitions' and 'regulation, control and accountability' pre- and post-2003ⁱ

The governments of, amongst others, Sierra Leone and Angola, but also Papua New Guinea and Croatia, hired these and other companies not only to train their weak armed forces, but also to support direct offensive fighting missions of scales that later PMSCs working for Western states were unlikely to find themselves in. A clear point of controversy on top of that were the murky payment schemes, including mining concessions, that both EO and Sandline accepted.⁷ The main explanation offered for the entrance of these actors lies in two related post-Cold War developments. On the one hand, the end of the Cold War is said to have “sparked a chain of military downsizing around the globe”, whereby both skilled soldiers and military hardware became available to states and companies alike.⁸ This explains how private companies could acquire the military resources they needed, to offer the services they did. On the other hand, as Mills and Stremlau summarise the argument, Western reluctance to further intervene in local conflicts left these states without “foreign military assistance [...] and opened the way to greater market forces”.⁹ The predominant conclusion of the

ⁱ Included are the substantive foci of all publications. Figure 1.a N = 24, figure 1.b N = 87. For a further and more detailed breakdown of the research foci of the post-2003 publications see figure 4.

literature on early military companies is that their victories came swift, but that their long term strategic impact has been dubious.

Although African security commercialisation has not disappeared as a topic of inquiry, the focus and tone of later publications changed significantly,¹⁰ as well as did their overall prominence in the literature.

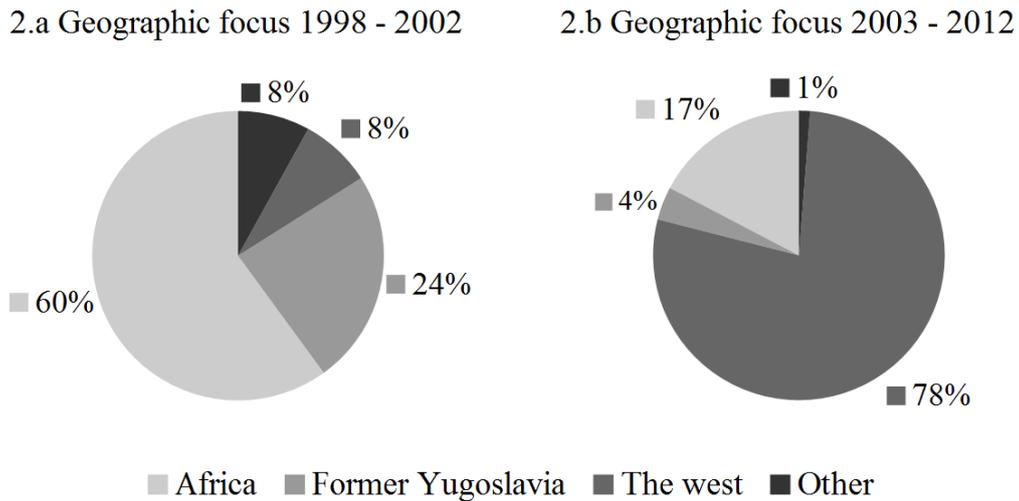


Figure 2 – Geographic focus pre- and post-2003ⁱⁱ

Until 2003 outsourcing by strong, or Western states was scarcely mentioned. Most publications problematised the activities of EO and Sandline, African limited statehood and the weak national security forces, or explored the possibilities of private support, or 'privatised peacekeeping', in a geo-strategic context where the Western withdrawal and unwillingness to intervene created a need for alternative security provision.¹¹ Studies specifically focussing on Western outsourcing were non-existent, and if mentioned, they were mainly introduced as the home states of one of the active companies; Sandline from the UK, and MPRI, active in former Yugoslavia, from the USA.¹²

As figures 1 and 2 show, since 2003 there has been a rapid, almost instant, double shift: The research focus shifted away from the African continent towards the 'Western

ii Included are those publications that have a clear geographic focus, or that studied aspects of outsourcing by one or more specific countries. Figure 2a N = 25, figure 2b N = 82. A further breakdown of the countries studied can be found in figure 5.

democracies', as well as away from the military companies and the industry, towards questions of regulation, control, and accountability. This shift followed the changes 'on the ground', as the post-9/11 military importance of the theatres in Iraq and Afghanistan, and the vast presence of contractors working for the USA in these theatres, started drawing much attention. Moreover, a number of incidents in Iraq in 2003-2004, for instance the involvement of contractors in the Abu Graib prisoners abuse,¹³ spurred the interest in contracting for military services by Western, or strong states, and the new challenges this posed. Therewith the publications also became more analytic, and started questioning the position of these new actors in established democratic systems and the military command and control structures.

That notwithstanding, two relatively recent occurrences might draw attention back to where the discussion initially started. Both in relation to more traditional mercenary forces, as well as to contracting by weak states. In 2011, during the Libyan uprising against Muammar al-Gaddafi, the latter allegedly employed individually 'contracted' mercenaries to support his troops.¹⁴ Mehari Taddele Maru, amongst others, noted that mercenaries from a diverse set of African countries were reported fighting alongside Gaddafi's supporters.¹⁵ Moreover, and more recently, the government of Nigeria has acknowledged contracting private forces to support its fight against the militant group Boko Haram.¹⁶ Although it is as of yet unknown how these private forces are organised, and how their remuneration will be arranged, a Nigerian government spokesperson, was quoted stating "that the government in not engaging in 'any backchannel or unlawful recruitment'",¹⁷ indicating that legally organised PMSCs might be contracted for. If these first reports from Nigeria are true, it would show an interesting divide in the activities that PMSCs (are allowed to) undertake when contracted by weak states that need direct military training and (battle) support, and when contracted by strong states, that seem to employ PMSCs predominantly for base support functions, logistics, and compound and convoy protection. Despite the little information about the contracting conditions of the private forces currently present in Nigeria, the private *military* company might have, at least temporarily, been revived.

Explaining the outsourcing of military and support functions

The above mentioned shift towards outsourcing by strong or Western states, however,

cannot be explained as similar to earlier experiences with private military companies in weak states in the 1990s. For one, the post-Cold War reluctance to intervene left the latter, struggling with internal conflicts, to their own devices. Their own armed forces unequipped to resolve the tensions, they employed private military companies for either offensive or training purposes (or both).¹⁸ Outsourcing by the 'West', on the other hand, cannot be explained by non-intervention itself – PMSCs in fact accompanied the forces on their expeditionary missions. However, as for instance Christopher Kinsey argues, outsourcing there can still be seen as a form of reluctance: “the reluctance of politicians to commit soldiers to conflicts where there are no national interests at stake”.¹⁹ PMSCs in this context are said to be used to reduce the military foot print, and lower the political costs ordinarily involved with an intervention.²⁰ It is also therefore, as Christopher Spearin argues, that in relation to Western outsourcing PMSCs are found predominantly in support and facility functions to free up national soldiers for the front.²¹

Combined, these notions of the post-Cold War reluctance of Western states to intervene by military means are the most frequently offered explanation for the increase in military contracting: In 30% percent of the cases when an explanation for the rise in the use of private companies in conflict zones is offered, this argument is put forward (see figure 3, below). When it comes to understanding the commercialisation of defence researchers often state that there are three main developments that explain the growth of the private military and security industry. Not surprisingly the reasons they thereafter mention are not always the same three. I distilled six different explanations for the increase in contracting, of which three are by far most prominent: The Western unwillingness to intervene (discussed above), the spread of neoliberalism, and the sudden availability of military supplies and personnel (discussed below).

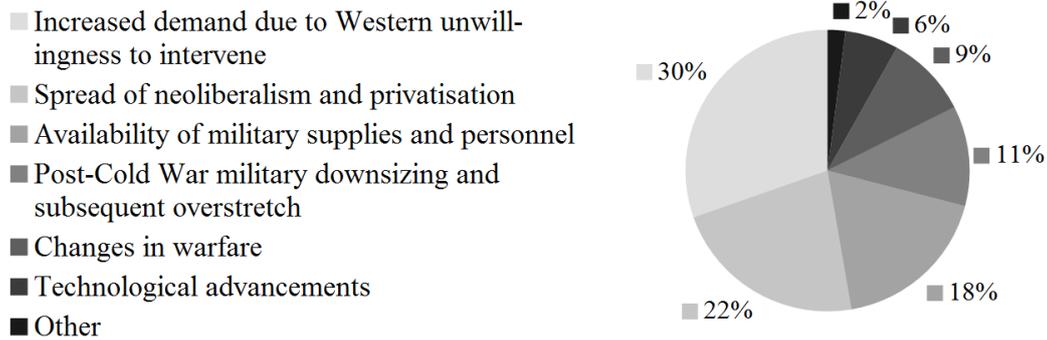


Figure 3 – Explanations offered for the commercialisation of defenceⁱⁱⁱ

After the 'Western unwillingness to intervene', the second most frequently offered explanation holds that the commercialisation of defence is the outcome of “a general enthusiasm for the outsourcing of state capacities in the industrialized world”.²² Different researchers have linked military contracting to neoliberalism,²³ a general trend towards privatisation and outsourcing,²⁴ and the assumptions associated with market efficiency.²⁵ This explanation is also used in relation to further security contracting in and by African states,²⁶ but is more dominant in the discussions on outsourcing by Western states.

Often referring to the pro-market policies in the UK and the USA, military outsourcing is explained as a result of the internalisation of the market paradigm – the ideas related to neo-liberalism, including market primacy and efficiency, and the subsequent preference of market-based solutions over government. The argument that the commercialisation of defence is related to the acceptance of neoliberalism is important as it allows us to discriminate amongst Western countries. As Elke Krahnmann argues and shows, the USA, UK, and Germany, for instance, have different “approaches towards the privatization of military services despite facing similar security challenges and demands”.²⁷ The importance of this argument will be further explored when discussing the research prioritisation of 'positive cases' (the USA and UK), and the value of conducting negative case studies.

ⁱⁱⁱ Included are all individual mentions of an explanation for the increasing defence commercialisations, and the market for force. N = 151.

The third explanation, offered 18% of the time, is the argument of 'increased supply', referred to earlier. This explanation holds that due to post-Cold War and post-Apartheid military downsizing both skilled soldiers and military hardware became available to states and companies alike. This argument does not tell us why states started contracting for force, but how private companies could acquire the human- and material resources they needed, to offer the services they did.

The fourth, fifth, and sixth explanations appear much less frequently. Respectively only 11%, 9%, and 6% of the time. The fourth explanation – the post-Cold War military downsizing and subsequent overstretch – relates strongly to the 'Western reluctance to intervene', but puts forward that despite that reluctance, and indeed non-intervention in some parts, the operational tempo of Western militaries increased after the end of the Cold War. Meeting these extensive military commitments put stress on the forces, and contracting, for instance Spearin argues, alleviated some of this stress by freeing up national soldiers from support functions.²⁸ The fifth and sixth explanations are related. Terrorism, asymmetrical warfare, intrastate conflicts, and state collapses, often combined with famine and other humanitarian disasters, required very different military interventions and tactics. Counterinsurgency tactics had to be learned, and a broad range of high-tech, high-precision weaponry acquired. The latter, including Unmanned Aerial Vehicles (UAVs, also known as drones) and satellites, are not only developed by private companies, but often also maintained by them, and, at times, operated by them. Therefore many military contracts involve research and development, maintenance of hardware, as well as training to acquire the skills to use the new weaponry and military techniques.

On regulation, control and accountability

From 2003 until, roughly, 2012, three broadly related themes came to inform most theoretical and empirical work: regulation, control, and accountability. These three themes are not so much different topics as they are different ways to achieve a common goal. In short, all three are looking for means to elicit responsible contractor behaviour. Whether it is by monitoring and ensuring democratic (parliamentary) oversight, by being a credible principal, or by setting up a legal framework to penalise undesirable behaviour, the main concerns have been to find ways and means to integrate PMSCs

into democratic systems and military command structures, and highlight potential complications. Of all publication included in the sample, 55% focusses on questions related to international and domestic law and regulation, control, or accountability (see figure 4). The most prominent research foci will be discussed in more detail directly below, the implications of these foci for our understanding of PMSCs and the consequences of outsourcing conflict zones are discussed in the next section.

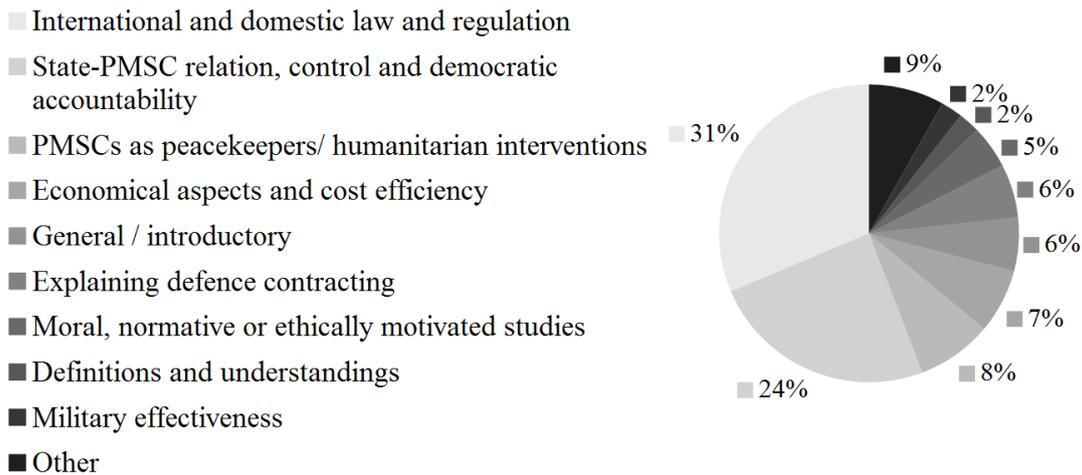


Figure 4 – Substantive focus from 2003 to 2012^{iv}

Publications with a substantive focus on international and domestic law and regulation make up the largest share of the sample: 31% of all studies. Most of these publications analyse the (in)applicability and difficulties of existing regulatory regimes,²⁹ and/or make suggestions for different regimes.³⁰ What can be concluded from this debate is that the initially identified 'legal void' or 'vacuum' is probably better described as a regulatory “patchwork” with complementary aspects of domestic, international, and contract law, that nonetheless does not add up to a coherent legal structure.³¹

Without going into too much legal detail here, studies have highlighted the difficulties of applying the domestic criminal laws of the sending state in relation to extraterritorial jurisdiction, or under military penal codes, as well as questioned the

^{iv} Included are all publications published between 2003 and 2012. N = 87.

effective jurisdiction of the host-state due to the often weak judicial systems. In the case of US-American responsibilities, deficiencies in both the Military Extraterritorial Jurisdiction Act (MEJA) and the Uniform Code of Military Justice (UCMJ) are often mentioned.³² Regularly problematised are also the difficulties of conducting thorough investigations into incidents, and the practical problems of bringing evidence and witnesses to the sending-state for trial. In case of the host-nations, notable problems are the weak judicial systems and exemption agreements with the sending-states, providing contractors at least partial immunity from local jurisdiction.³³ A commonly referred to example of an exemption agreement is the Provisional Authority Order nr. 17 in Iraq,³⁴ although Sarah Percy makes clear that similar exemptions can be found in other 'status of forces agreements' as well.³⁵

Under international criminal, and humanitarian law different obstacles persist. Laura Dickinson, Chia Lehnardt, and Renée de Nevers provide excellent overviews of the standing of PMSCs and their personnel under the different strands of international law, and both corporate and individual liability.³⁶ Lehnardt argues that, rather than there being an absence of applicable law, there are problems with enforcement. In brief, she explains that it is unlikely that a case of contractor misconduct will appear in front of the international court because, first, the contractor's misconduct must amount to a 'sufficiently grave' breach of the Geneva Conventions and Additional Protocol I – sufficiently grave including: “wilful killing, torture, or inhuman treatment, wilfully causing great suffering or serious injury to body or health and unlawful deportations”³⁷ – and; second, because of the complementarity principle giving pre-eminence to domestic courts. The latter is problematic as it leads jurisdiction back to the domestic courts of either the sending or host-nation, and the therewith associated difficulties.

On occasions it has been suggested that self-regulatory frameworks in the form of corporate social responsibility and industry standards could play a role.³⁸ James Cockayne remarks that state-PMSC cooperation might lead to a “global regulatory mechanism regarding socially responsible PMCs and driving others to the margins”.³⁹ Before him Christopher Kinsey also suggested that introducing a voluntary code of conduct could be an option.⁴⁰ Kinsey, however, immediately points out that this would omit the goal of actual regulation, and still leave states without real sanctioning options. Moreover, as especially Renée de Nevers argues strongly, the chance that the

industry adopts a satisfactory and working regime of self-regulation is rather small.⁴¹ The obstacles to effective self-regulation she sees are intrinsic to the industry and the context in which it operates.⁴² To overcome these difficulties she suggests "for governments to make compliance [...] a contractual obligation, or to use [it] as a certification tool", which would, paradoxically, make voluntary self-regulation obligatory.⁴³

In the publications on state control and democratic accountability we see that civil-military relations are a specific type of principal-agent relation, were the entrance of a new actor (the PMSC) upset the dynamic and complicated the relation.⁴⁴ Not all publications use the principal-agent terminology, but almost all can be understood in this light. The discussion on state (or principal) control over their contractors (agents) is largely driven by Anna Leander,⁴⁵ and Deborah Avant⁴⁶ – although both approach the topic from a different angle.

Leander's main focus is on how private military and security companies can influence their principals by shaping the security discourse, and therewith their principal's threat perception and perceived security needs. She argues that in advisory positions or by means of lobbying, companies can set the political security agenda and influence policy outcomes in their favour. In doing so military contractors indirectly gain partial, *de facto*, control. She thus looks, albeit using different terminology, at the agent's abilities to exert influence over its principal. Considering, as also Claire Cutler brings up, that security and technical experts are found "at the nexus of structures of power and knowledge" it is important to question to what extent PMSCs can influence decisions concerning the use of violence.⁴⁷ This debate, which is not yet concluded, highlights the potential of PMSC co-optation, or even role reversal, threatening democratic control over the use of force.

Avant, on the other hand, approaches the question of control from the position of the principal: How can states maintain control over their private military and security agents? In her book she distinguishes amongst political, functional and social control, and looks if and how the use of private companies impacts state control over the application of force.⁴⁸ Other studies, which like Avant take the perspective of state control, look specifically at oversight and performance evaluations to see how the principal-agent dynamics took shape.⁴⁹ "The core of the problem", Ulrich Petersohn

explains in relation to the few cases of contractor misbehaviour that have been tried, “might therefore not be insufficient legislation, but rather a problem of oversight”.⁵⁰ Although his paper is about the improvements that the US-American forces made in terms of control and oversight, he still (as recent as 2011) describes the system as having “serious shortcomings”.⁵¹ This lack of oversight and control resonates in the literature. Researchers concluded that the absence of oversight is “striking”, and that “gross inadequacies [underlay] contract management” posing serious problems for control and accountability.⁵²

The other, significantly less prominent topics in the literature are the (im)possibility of using private military and security companies as peacekeeping forces,⁵³ their cost saving potential and economical effectiveness,⁵⁴ the explanation of the existence and growth of the private military and security sector,⁵⁵ their military effectiveness,⁵⁶ and the assessment of moral, normative, and ethical concerns in relation to the use of PMSCs.⁵⁷ Most prominent of these are the questions into the potential use of PMSCs as international peacekeeping and humanitarian forces.

Interesting in the 'peacekeeping' debate is that it moves part of the focus away from outsourcing by states, and focusses on contracting by, for instance, humanitarian organisations. It foresees a much more independent role for PMSCs, although, as Christopher Spearin points out, there are many obstacles in the way. He also laments that, if it may come to it, the underlying motive for PMSCs would still be financial, and the humanitarian sector must have been sufficiently 'instrumentalised' to make such a liaison possible.⁵⁸ Nonetheless, PMSCs playing a role in peacekeeping has been, and is likely to remain, a point of debate. As the overlap between the needs of and for military interventions, counterinsurgency strategies, and humanitarian relieve grows, questions of privately led peacekeeping or peace observing missions, as well as contractors as 'aid enablers' might draw closer. Although he sees many “*reasons against the use of these firms*”,⁵⁹ James Pattison does argue the objections against private peacekeeping missions might be outweighed by the potential of a successful intervention.⁶⁰ Although perhaps objectionable, in practice, if questions of oversight and accountability can be cleared, 'coalitions of the paying' may prove easier to organise than 'coalitions of the willing'.

Adding together these debates shows that the literature on PMSCs and the

commercialisation of defence has come a long way in recognising possible problems with, and consequences of, outsourcing in conflict zones. Moreover, considering it seems unlikely that outsourcing will be fully reversed, it remains important that the complications and gaps in the legal and oversight structures be identified and monitored, and that improvements and feasible alternatives be suggested.

That notwithstanding, the relatively long research focus on the consequences of military outsourcing for regulation, control and accountability also shows that much less attention was given to other questions, including questions regarding the antecedents and spread of the commercialisation of defence, and questions regarding socio-economic, cultural, and other factors less directly related to defence and security tasks. Moreover, as I show below (figure 5), this focus on regulation, control, and accountability coincided with a geographical focus on outsourcing by, first and foremost, the USA, and to a lesser extent the UK, and thus on studying positive cases – cases where military outsourcing is 'present'.

Who is the 'West'?

Figure 5 shows that between 2003 and 2012 by far most systematic and anecdotal evidence comes from the USA, followed by the UK. Of all publications in the sample 40% derived its evidence from the USA, and 15% from the UK. If we focus on the Western countries alone, this would be 65%, and 24% respectively. This means that combined a total of 89% of the empirical studies on Western military outsourcing between 2003 and 2012 derived its insights from these two cases.

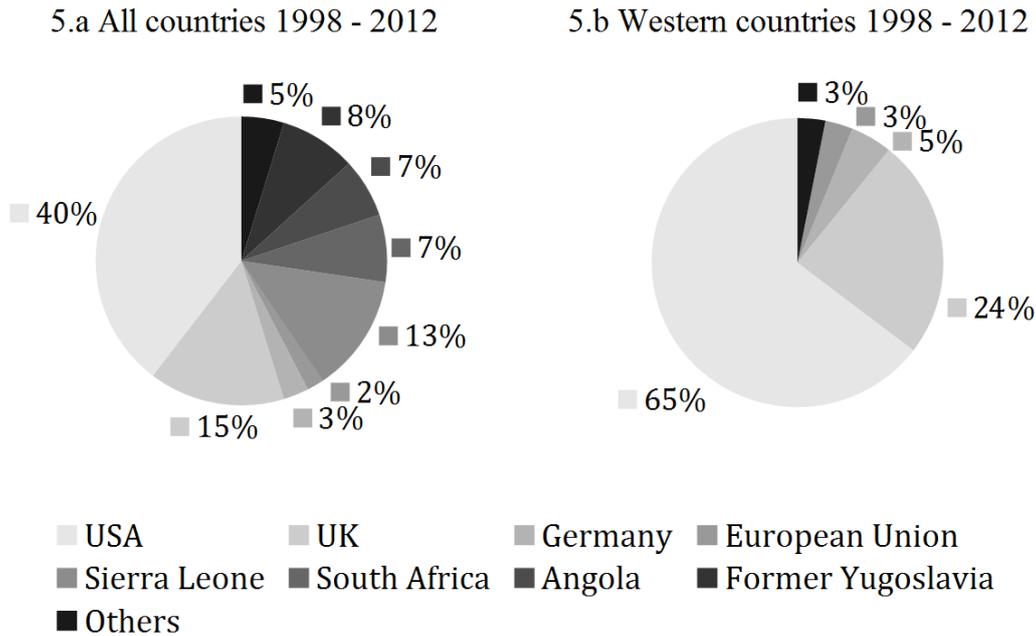


Figure 5 – Empirical evidence per country^v

During this period other Western countries such as Canada,⁶¹ and Sweden⁶² were discussed in the English literature, but their presence is almost negligible. The strong focus on the USA and UK can probably be explained by two factors: a) The data-richness of these cases – Anna Leander, for instance, explained her relying on the experiences of the USA for one of her studies by the fact that “privatisation there has gone further than elsewhere” and “the consideration that more information is available”,⁶³ and; b) the fact that most research projects need positive cases – for instance, if one wishes to determine to what extent contractors are integrated into the military command and control structure, one needs to study a military organisation that uses contractors. Although these are, of course, valid arguments, the strong focus on positive cases left important questions about the scope of the phenomena (which countries are outsourcing military functions, and to what extent?) unanswered, and leaves open how far our findings, and the implications of contracting discussed, can travel. In fact, considering the current state of knowledge, we cannot decisively say whether the USA and UK are typical pieces of the Western contracting pie, or whether

^v Included are all empirical foci on contracting, or an aspect of contracting, by a country or the European Union in the literature. Figure 5a N = 107, figure 5b N = 66.

they, to a large extent, *are* the pie.

The next section brings together the predominant substantive and geographical foci identified, and discusses the ways these foci have influenced our understanding of PMSCs and the commercialisation of defence. Importantly, this discussion will be supplemented by an overview of the most recent literature, post-2011, and the ways in which some important steps have recently been taken to overcome the biases identified here, and the roads that remain less explored.

The need for differentiation

This section problematises the long research preferences of studying outsourcing by the USA and UK, and studying questions of regulation, control, and accountability. In it I highlight questions and implications that were underrepresented, and discuss the relevance of, and the headway that can be made by, studying: a) the commercialisation of defence beyond the usual suspects; b) outsourcing in conflict zones beyond the nation-state, and; c) questions beyond those directly related to regulation, control, and accountability.

The commercialisation of defence beyond the usual suspects

As said, it is understandable that research initially focused on studying positive cases, and thus on military outsourcing by the USA and UK. However, our relatively narrow case selection had the effect that we have learned much (see above) about a new topic, without being properly aware of its scope: Which other countries are employing private companies in conflict zones? For which services? An important consequence thereof is that our findings and recommendations in relation to the USA and UK cannot travel far beyond. My argument here is that we should more carefully consider to which Western states certain causal arguments apply, and, therewith, to which states conclusions can be generalised. In relation to this I will first briefly critique the often uncritical use of the categories 'Western', 'strong', and 'rich' states, and thereafter highlight the value of conducting (potentially) negative case studies, and reflect on a number of recent publications that started studying contracting beyond the usual suspects.

First, despite the narrow case selection references to 'Western' governments, states,
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countries, and armed forces are common in the literature.⁶⁴ Using different categories the distinctions between outsourcing in strong and weak states,⁶⁵ rich and poor countries,⁶⁶ and mature and immature democracies are also made.⁶⁷ The frequent use of such larger, and often times undefined categories, I argue, amounts to an implicit generalisation problem: It implies that we can say something about military outsourcing in *all* states included in these categories, from having studied at least one country *representative* for all others. This type of generalisation is an 'implicit' generalisation, as it mostly lies in the imprecision of the terminology. Probably not intended as such by the authors, but two examples are Christopher Kinsey and Elke Krahmman. Kinsey makes a tentative generalisation remarking that: “but the country [Iraq] is a good example of how *governments in the West* are increasingly coming to rely on private military security to achieve their objectives” – his book studies outsourcing in the USA and UK.⁶⁸ A similar generalisation can be found in Krahmman's introduction when she states: “*Many Western democracies* no longer hold the monopoly on the legitimate use of violence to protect their citizens”.⁶⁹ This particular study only refers to examples of US-American defence contracting. Krahmman generally uses the more specific 'Europe and North America' in her publications, but also then we should question to what extent this coincides with our knowledge and research.

The argument here is not that using categories such as Western, strong, and rich states is necessarily incorrect – it is for instance reasonable to assume that the difficulties in relation to control and accountability would be equal if other states were to outsource similar functions to similar extents – but that the literature could benefit from verifying to what extent other countries in these categories are outsourcing military and/or support functions, and thus whether similar experiences and problems can be expected, or whether other states are facing different questions. Moreover, in relation to statements about the antecedents and extent of outsourcing in the West, we should, unless we have good reasons to assume that other countries are comparable to the usual suspects, be careful in using the USA and UK as exemplary, or 'typical' cases.

Second, it is in relation to the latter that studying potentially 'negative' cases could be instructive. Elke Krahmman, in a later study in 2010, described Germany as remaining “committed to [...] the citizen-soldier model”, in direct juxtaposition to the USA's and

UK's increasing willingness “to replace professional soldiers with private military contractors”,⁷⁰ indicating that the military transformations frequently discussed as a prominent factor in relation to the USA and UK, might not travel to all Western countries to similar degrees. Depending of course on how 'Western' is defined, such a finding could be relevant for other countries that remain committed to the citizen-soldier model, or that otherwise differ from the usual suspects in terms of force composition and mission focus, such as Israel and South Korea (two OECD member states), or Switzerland and Finland (two European countries). In short, it would be interesting to explore more closely, and more *explicitly*, the 'explanations offered for the commercialisation of defence' in relation to these and other states, and the different local manifestations of the more general trends frequently referred to in the literature (see figure 3).

By conducting more comparative case studies we can learn about which countries (are likely to) outsource military and/or support functions, but also, if we include potentially negative cases, we can find out where defence is not, or scarcely, contracting out, and why some countries may be reluctant to follow the USA – UK example. Negative cases can indicate 'blocks' on defence commercialisation, and expose the different considerations countries might have, and their different interpretations of what constitutes a sensible defence policy and force build-up.

These critiques on the long focus on the USA and UK notwithstanding, a stream of research started expanding beyond the usual suspects, and exploring the antecedents of commercialisations in important ways. Studying contracting in the USA and Germany, Ulrich Petersohn explicitly explored the differences in outsourcing military and support functions. He argues it are not so much the manpower and budgets shortages that account for the timing and extent of outsourcing, but the different understandings of sovereignty between the two countries, framed as a *Lockean* or minimanistic understanding of the state (the USA), and a *Rousseauian* or broader and more positive understanding of the state (Germany).⁷¹ Further contributions are made by Andreas Kruck and Joakim Berndtsson. Kruck in his 2014 paper included Germany and France besides the two usual suspects and found both countries to be more reluctant towards employing PMSCs, highlighting ideational considerations.⁷² Berndtsson offered an in-depth study of Swedish contracting, highlighting most prominently the recent defence

transformations in the country as facilitating commercialisation.⁷³ Interestingly, all three seem to conclude, to put it in Berndtsson's words, that although there are some general changes underlying the commercialisation of defence, the process is “shaped, constrained, and motivated by case-specific conditions”.⁷⁴ Not surprisingly then, these studies show that the extent and type of reliance on contractors differs starkly amongst these Western countries, a finding that is supported by the different chapters of a recent volume edited by Anna Leander.⁷⁵ The latter, although the volume focuses on the 'political consequences' of security commercialisation, highlight more direct reliance for logistics and support functions in France, Germany, Italy, and Sweden,⁷⁶ but also, dominantly, indirect reliance through international cooperation in both these, as well as the other countries.⁷⁷ This last finding – indirect reliance through contracting for logistics and support functions in Afghanistan by NATO, and reliance on contractors of allies – unfortunately remains 'hidden', and largely undiscussed in the book (this point is further discussed in the next subsection).

In all, despite the recent broadening of cases studies, there are angles that remain to be explored, and arguments that can be made more explicit: First, the differences amongst Western states can, and should, be studied more explicitly, also, or perhaps especially, using conjunctions of the different explanations, or, as Kruck called it, 'synthetic accounts'; second, questions regarding potential 'blocks' as well as the actual spread of outsourcing in terms of both scope and depth can be studied in more detail, in a broader set of countries. This, in order to establish whether other Western countries are expected to face problems similar to those the USA and UK experienced, or whether other states are facing different questions, in relation to different aspects, types and extents of commercialisation.

Outsourcing in conflict zones beyond the nation state

A second, less obvious consequence of the focus on the USA and UK is the lower degree to which non-state, intergovernmental actors feature in the literature. With private-private contracting – the use of private military and security providers by private corporations such as oil and maritime companies, and state-independent NGOs – occasionally studied,⁷⁸ the underexposure of NATO and other intergovernmental actors as independent contractors is most significant. Again, the prioritisation of

studying contracting by states can be understood in terms of presence and prominence, but there are clear signs of contracting by non-state actors such as NATO,⁷⁹ EUPOL,⁸⁰ and the UN,⁸¹ that are worth exploring further.

As briefly mentioned above, one of the implications of the different case studies in the volume edited by Anna Leander seems to be that reliance on contracting by NATO, or NATO partners, is an important common denominator. Discussed as 'indirect' or 'hidden' support in virtually all cases, Østensen expressed it most clearly in relation to the Norwegian participation in Afghanistan. She discloses that the Norwegian contingent relied for 'back-end support' on Sodexo, a French multinational that organises facility functions such as “provisions, canteens, construction, sanitary services, laundry, etc.”, as contracted for by NATO's Maintenance and Supply Agency (NAMSA).⁸²

And NATO contracting in Afghanistan seems to have been more extensive than that. In an interview I conducted in Ottawa with Roger McIsaac, former Project Manager of ATCO Structures and Logistics' activities at Kandahar Airfield, we talked about the work and services ATCO provided directly to NATO, as well as the many other contractors working on site, and the chances and challenges this offered for cooperation, and, during (re-)bidding periods, competition.⁸³ Another company that serves as an example for direct NATO contracting is the Copenhagen Group: They offered mortuary services to the NATO Support Agency (NSPA), as well as build and operated a large gym for NAMSA.⁸⁴ These brief examples are likely to be but the tip of the contracting iceberg, but Sodexo, ATCO, and the Copenhagen Group offering between them waste management, and canteen-, fire fighting-, and mortuary services shows the breadth of NATO outsourcing at Kandahar Airfield.

Broadening our studies to include intergovernmental actors is important, first, because many of the logics regarding oversight, regulation and (democratic) accountability will be different, and potentially more complicated. Therefore the lessons learned in relation to contracting by nation-states are unlikely to be one-on-one applicable to intergovernmental organisations. Second, because it will lay bare the complexity of *support structure* contracting, and the potential coordination problems arising from having different companies working together on, and competing for, contracts from different institutional actors. Moreover, whereas Leander and Spearin

mention the obfuscation of security commercialisation in the EU by the countries' silence about their practices,⁸⁵ mandating non-state actors such as NATO, EUROPOL, and the UN, is a second means of keeping direct use of private support in conflict zones out of the national books and discourse, and thus of obfuscating the commercialisation of services and security in conflict zones they are responsible for. Although Anne Leander and Elke Krahnemann are developing a project studying contracting during UN, NATO and EU interventions (in Congo, Afghanistan, and Bosnia-Herzegovina respectively) looking at “regulatory, operational and representational practices” and the cooperation of these intergovernmental organisations with PMSCs,⁸⁶ no work explicitly studying and problematising the outsourcing of military and support functions by these actors seems to be published to date.

Implications beyond regulation, control, and accountability

As shown in figure 4 of this paper, the strong geographic focus on the USA and UK between 2003 and 2012 coincided with a substantive research focus on studying questions of regulation, control, and accountability. As indicated, a number of conspicuous and grave activities by contractors in (post-)conflict zones – such as arms- and human trafficking, unnecessary fatal shootings, and torture –⁸⁷ incited many studies into these questions, and the means available to elicit responsible contractor behaviour. Moreover, although the distinction between contracting for front and (military) security services, and rear- and support services has been made from the beginning,⁸⁸ questions regarding the control and regulation of the first type have largely overshadowed research into the implications of the second, less eye-catching type of contracting. Here too it is clear why questions of regulation, control, and accountability of military security outsourcing have been prioritised over others, but likewise that it is necessary to go beyond.

For instance, with everyday services such as food preparation, waste disposal, and cleaning contracted out, these services are handled by contractors which draw their employees from a global pool of labour, including many low-wage countries.⁸⁹ Their presence did not go entirely unnoticed before. Katherine McCoy, for instance, noted in 2010 that “the PMC labor force is [...] highly globalized”, and consists of many Third Country Nationals (TCNs).⁹⁰ Relatively uncritical however, she takes a functional

perspective finding that “this design works well for both PMCs and their clients [the USA]” as it “helps PMCs to respond to states’ demands for market competition culminating in low bids for contract work”.⁹¹ The drawback in relation to this type of migrant-labour she highlights relates to ‘unit cohesion’, an insight she uses to indicate “potential lapses in the state’s ability to control the [PMSC] labor force”.⁹² Yet, the entrance of an internationally contracted, low-wage labour force conducting low-skilled labour behind military wires raises many more questions. Questions that go well beyond those directly related to regulation and control.

Despite the fact that Isabelle Barker addressed the TCN problematique in 2009 already, showing that most reproductive labour – the work, as she explains it, that relates to the “physical and emotional care of dependents” such as cooking and cleaning – on US-American bases in Iraq was “performed by men from poor Asian countries”,⁹³ this notion, and the presence and work of TCNs remains underexposed in the literature. As recent as 2014, Amanda Chisholm noted upon the lack of research centralising TCN labour in conflict zones: “While Gurkha labour, like other TCN labour, is indispensable to PMSCs, it is also largely excluded from academic and practitioner discussions”.⁹⁴ Creating a better balance between research focussing on the ‘front-’, and research focussing on rear-support functions would be a first step beyond the previous research priorities. It would invite us to look at the wartime workforce in relation to migration, the global distribution of labour and precarity, as well as zoom in on the treatment of TCNs and labour conditions under (sub-)contracting.

However, the recent work of Chisholm and others does show that, much alike the earlier discussed focus on the USA and UK, there is a recent, critical wave in the literature that started raising questions beyond those directly related to regulation and control. In this broadening of the substantive research focus gender studies have played a prominent role. Important work by, amongst others, Paul Higate, Jutta Joachim and Andrea Schneiker, and Maya Eichler started addressing questions with regard to the “masculinised and racialised hierachy” in the PMSC security workforce and the masculinised “othering” and subordination of TCNs working as security guards,⁹⁵ as well as, for instance, the re-gendering of protection, and the re-casting of classical male protector/female protected gender roles.⁹⁶ Interestingly, here too most studies focus on the masculine ‘front’ security roles, and much less on those conducting the “feminized

reproductive labour” of the rear-support functions.⁹⁷

Partly overlapping with gender research, a second stream moving beyond regulation and control is looking into the image and (self-)imaging of PMSCs. Joachim and Schneiker have for instance conducted research both towards the hyper-masculinised self-representation of PMSCs, and, in a different publication, into PMSCs' attempt at appropriating the image of 'New Humanitarians'.⁹⁸ Kruck and Spencer took a different approach to the latter, and study the extent to which PMSC self-narratives are reflected in, or, more akin to their conclusion; opposed by, the media. They find that whereas PMSCs tend to portray themselves as technical and military experts, professional businessmen, noble humanitarians, and proud patriots, media narratives tend to characterise them as incompetent cowboys, exploiting war profiteers, uncontrolled abusers, and dirty mercenaries.⁹⁹

One potentially interesting way to further their research would be to establish how PMSC self-narratives resonate within different political and elite circles. Going somewhat in that direction, recent research also addressed the perception of PMSCs and their functioning amongst US-American soldiers and field-grade officers,¹⁰⁰ as well as their projected and self understandings as military professionals,¹⁰¹ and military effectiveness.¹⁰²

Here too, although recent publications have indicated thought-provoking research paths beyond the regulation, control, and accountability of PMSCs – especially those active in security related functions – there are ways to continue on the set courses, or to explore different questions still. Learning more about the implications of defence commercialisation beyond the most prominent questions of regulation and control may prove vital for the considerations of states that are not (yet) outsourcing military and/or support functions. What would it mean for the standing and morale of their forces, and military effectiveness? How does outsourcing support functions impact deployments, but also; how does it impact the people conducting the work? Can, or does it reverse the important steps taken towards the inclusion and emancipation of women in the armed forces? And in relation to NATO (sub-)contracting, policy, and member-states direct and indirect involvement in outsourcing: To what extent is military contracting reproducing a world of inequalities and racial differences in conflict zones, and how could that impact the 'cosmopolitan' and 'humanitarian' stance of some armed forces?

Gaining the answers to these and other questions related to military-, and, not unimportantly, back-end support services would advance our understanding of the implications of defence commercialisation, and increase the relevance of our findings for a broader group of states and policy makers, that are likely struggling with a broader set of questions than those related to control alone.

Conclusion

In this paper I presented a more traditional overview of the literature on defence contracting and the resulting private military and security companies that aimed at facilitating reflections on the state-of-the-art. Most importantly, I offered one such reflection myself by problematising the dominance of studying questions of regulation, control, and accountability in relation to companies working for the USA and UK, and by discussing the unintended consequences these research priorities had for our understanding of the scope and implications of defence commercialisation.

As can be read from the last section, I believe an important step can be made by creating a better balance between research focussing on the front security functions, and research focussing on rear-support functions. Researchers, like Spearin and the contributors to the edited volume by Leander cited earlier, frequently point out that many, if not most, of the outsourcing in conflict zones by Western states – especially those other than, but not excluding, the USA and UK – relates to support and facility functions. Yet, the focus on the more eye-catching, security type of contracting has been strong, and still persists. Giving greater importance to rear-support contracting would invite us to look at other states and their outsourcing habits, support and facility contracting by NATO and other intergovernmental actors, as well as address other questions such as those regarding the internationalisation of the wartime workforce, the place and space of migrant workers in conflict zones, and the many non-military non-security companies, such as Sodexo and ATCO, working behind military wires. In the end, this could increase the relevance of our findings to a broader group of states and non-state and intergovernmental actors, as well as forge bridges to other fields and views of study.

In relation to that, and as a final, critical side note on terminology: It is for the

prominence of outsourcing facility and support functions that we should question the accuracy of the terms 'private *military* and *security* company/contractor', and 'military privatisation' or 'military outsourcing' as catch all terms for defence commercialisation and outsourcing in conflict zones. It is already by the use of these terms that the focus is drawn towards the front security functions, and the rear-support functions remain hidden. In this paper I tried to use terms such as defence commercialisation, the outsourcing of military and support functions, and outsourcing in conflict zones, unless, as is the case with military contracting by weak states, I did find the former terms to be appropriate. I would have personally preferred the simpler term 'defence contracting/contractors' as it leaves open whether the outsourcing relates to a security or support function, but it was pointed out to me that the term is usually meant for the large defence manufacturers, such as Lockheed-Martin, and I subsequently refrained from using it.

In short, this paper aimed and to convey a need for further differentiating the themes and cases studied, and discussed the headway that can be made by, studying: a) defence commercialisation beyond the usual suspects; b) outsourcing in conflict zones beyond the nation-state, and; c) questions beyond those directly related to regulation, control, and accountability. As Eichler put it in her acknowledgements: “we [...] aimed to inspire others to ask feminist questions and further develop the emerging field”.¹⁰³ My aspiration here was similar, albeit applicable to all emerging fields and studies that develop new angles to, or that go beyond, the prioritised research foci in the fields of defence commercialisation and outsourcing in conflict zones.

1 Herbert Howe, “Global Order and the Privatization of Security,” *Fletcher Forum of World Affairs* 22, no. 2 (1998): 1–10; Herbert Howe, “Private Security Forces and African Stability: The Case of Executive Outcomes,” *The Journal of Modern African Studies* 36, no. 2 (1998): 307–31; Kevin O’Brien, “Military-Advisory Groups and African Security: Privatized Peacekeeping?,” *International Peacekeeping* 5, no. 4 (1998): 78–105; David Shearer, “Outsourcing War. Why Mercenaries Are a Fact of Warfare,” *Foreign Policy*, (September 1998).

2 Howe, "Global Order" (note 1), at p.308.

3 See for instance: Anna Leander, “Introduction,” in *Commercialising Security in Europe* (New York: Routledge, 2013), 1–17.

4 Deborah Avant, *The Market for Force. The Consequences of Privatizing Security* (Cambridge and New York: Cambridge University Press, 2005).

5 Howe, "Private Security Forces: (note 1); Alex Vines, “Mercenaries and Privatisation of Security in

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- Africa in the 1990s,” in *The Privatisation of Security in Africa*, ed. Greg Mills and John Stremlau (Johannesburg: SAIIA, 1999), 47–80.
- 6 David Francis, “Mercenary Intervention in Sierra Leone: Providing National Security or International Exploitation?,” *Third World Quarterly* 20, no. 2 (April 1999): 319–38.
 - 7 See a.o.: Jared Lawyer, “Military Effectiveness and Economic Efficiency in Peacekeeping: Public Versus Private,” *Oxford Development Studies* 33, no. 1 (March 2005): 99–106; Abdel-Fatau Musah, “Privatization of Security, Arms Proliferation and the Process of State Collapse in Africa,” *Development and Change* 33, no. 5 (November 2002): 911–33.
 - 8 Peter Singer, “Corporate Warriors: The Rise of the Privatized Military Industry and Its Ramifications for International Security,” *International Security* 26, no. 3 (January 2001): 194.
 - 9 Greg Mills and John Stremlau, *The Privatisation of Security in Africa*, ed. Greg Mills and John Stremlau (The South African Institute for International Affairs, 1999), at p. 5.
 - 10 See for instance: Rita Abrahamsen and Michael Williams, “Securing the City: Private Security Companies and Non-State Authority in Global Governance,” *International Relations* 21, no. 2 (2007): 237–53; Rita Abrahamsen and Michael Williams, “Introduction: The Privatisation and Globalisation of Security in Africa,” *International Relations* 21, no. 2 (June 1, 2007): 131–141.
 - 11 Christopher Clapham, “African Security Systems: Privatisation and the Scope for Mercenary Activity,” in *The Privatisation of Security in Africa*, ed. Greg Mills and John Stremlau (Johannesburg: SAIIA, 1999), 23–46.; O’Brien, “Military-Advisory Groups” (note 1).
 - 12 See: David Shearer, “Private Armies and Military Intervention,” Adelphi Paper 316 (London: International Institute for Strategic Studies, 1998); Singer, “Corporate Warriors” (note 8). Alternatively, Mandel looks at the privatisation of internal security in relation to the USA, UK and South Africa, and thus at policing rather than military services. Robert Mandel, “The Privatization of Security,” *Armed Forces & Society* 28, no. 1 (2001): 129–51.
 - 13 Steven Schooner, “Contractor Atrocities at Abu Ghraib: Compromised Accountability in a Streamlined Outsourced Government,” *Stanford Law & Policy Review* 16, no. 2 (2005): 1–24.
 - 14 Mehari Taddele Maru, “On Unconstitutional Changes of Government,” *African Security Review* 21, no. 1 (2012): 67–73.
 - 15 Included in the list are Egypt, Tunisia, Sudan, Chad, Mali and Niger. Maru, “Unconstitutional Changes” (note 14), at p. 70.
 - 16 Al Jazeera, “Nigeria Acknowledges Presence of Foreign Mercenaries,” March 14, 2015.
 - 17 *ibid.*
 - 18 See: Christopher Coker, “Outsourcing War,” *Cambridge Review of International Affairs* 13, no. 1 (1999): 95–113; Singer, “Corporate Warriors” (note 8).
 - 19 Christopher Kinsey, *Corporate Soldiers and International Security. The Rise of Private Military Companies* (Abingdon: Routledge, 2006), at p. 97.
 - 20 Avant, “The Market for Force” (note 4).
 - 21 Christopher Spearin, “American Hegemony Incorporated: The Importance and Implications of Military Contractors in Iraq,” *Contemporary Security Policy* 24, no. 3 (2003): 26–47. The

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- prominence of contractors in support functions is also for this reason that I will briefly problematise our use of the term PMSC in the conclusion of this paper.
- 22 Simon Chesterman and Chia Lehnardt, "Introduction," in *From Mercenaries to Market, the Rise and Regulation of Private Military Companies*, ed. Simon Chesterman and Chia Lehnardt (Oxford: Oxford University Press, 2007), at p. 1.
 - 23 See for instance: Claire Cutler, "The Legitimacy of Private Transnational Governance: Experts and the Transnational Market for Force," *Socio-Economic Review* 8, no. 1 (December 10, 2010): 157–185; Clive Walker and Dave Whyte, "Contracting Out War?: Private Military Companies, Law and Regulation in the United Kingdom," *International & Comparative Law Quarterly* 54, no. 03 (2005): 651–89.
 - 24 Joel Baum and Anita McGahan, *Outsourcing War: The Evolution of the Private Military Industry after the Cold War*, SSRN Papers (2009); Chesterman and Lehnardt, "Introduction" (note 22); Mandel, "Privatization of Security" (note 12).
 - 25 Avant, "Market for Force" (note 4); Eric Fredland, "Outsourcing Military Force: A Transactions Cost Perspective on the Role of Military Companies," *Defence and Peace Economics* 15, no. 3 (June 2004): 205–219; Joakim Berndtsson, "Security Professionals for Hire: Exploring the Many Faces of Private Security Expertise," *Millennium - Journal of International Studies* 40, no. 2 (November 8, 2011): 303–320.
 - 26 See amongst others: Jakkie Cilliers and Richard Cornwell, "Mercenaries and the Privatisation of Security in Africa," *African Security Review* 8, no. 2 (January 1999): 31–42; Abrahamsen and Williams, "Securing the City" (note 10).
 - 27 Elke Krahnemann, *States, Citizens and the Privatization of Security* (Cambridge: Cambridge University Press, 2010), at p. 4.
 - 28 Spearin "American Hegemony Incorporated" (note 21).
 - 29 See for instance: Garth Abraham, "The Contemporary Legal Environment," in *The Privatisation of Security in Africa*, ed. Greg Mills and John Stremlau (Johannesburg: SAIIA, 1999), 81–106; Christine Bakker and Mirko Sossai, *Multilevel Regulation of Military and Security Contractors. The Interplay between International, European and Domestic Norms* (Oxford and Portland: Hart Publishing, 2012); Michael Schmitt, "Humanitarian Law and Direct Participation in Hostilities by Private Contractors or Civilian Employees," *Chicago Journal of International Law* 5, no. 2 (2005): 511–46.
 - 30 Michael Hurst, "After Blackwater: A Mission-Focused Jurisdictional Regime for Private Military Contractors During Contingency Operations," *Washington Law Review* 76, no. 5 (2008): 1308–26.
 - 31 James Cockayne, "Make or Buy? Principal-Agent Theory and the Regulation of Private Military Companies," in *From Mercenaries to Market, the Rise and Regulation of Private Military Companies*, ed. Simon Chesterman and Chia Lehnardt (Oxford: Oxford University Press, 2007), 196–216, at p. 201.
 - 32 See amongst others: Heather Carney, "Prosecuting the Lawless: Human Rights Abuses and Private Military Firms," *George Washington Law Review* 74, no. 2 (2006): 317–44; Laura Dickinson,

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- “Government For Hire: Privatizing Foreign Affairs and the Problem of Accountability Under International Law,” *William and Mary Law Review* 47, no. 1 (2005): 135–237; Carsten Hoppe, “Passing the Buck: State Responsibility for Private Military Companies,” *European Journal of International Law* 19, no. 5 (2008): 989–1014; Jennifer Martin, “Contracting For Wartime Actors: The Limits of the Contract Paradigm,” *New England Journal of International and Comparative Law* 14, no. 1 (2007): 11–33.
- 33 Sarah Percy, *Regulating the Private Security Industry*. (Abingdon: Routledge, 2006).
- 34 Hurst, "After Blackwater" (note 30); Don Mayer, “Peaceful Warriors: Private Military Security Companies and the Quest for Stable Societies,” *Journal of Business Ethics* 89, no. S4 (2010): 387–401.
- 35 Sarah Percy, “Private Security Companies and Civil Wars,” *Civil Wars* 11, no. 1 (2009): 57–74.
- 36 Dickinson, "Government for Hire (note 32); Chia Lehnardt, “Individual Liability of Private Military Personnel under International Criminal Law,” *European Journal of International Law* 19, no. 5 (2008): 1015–34; Renée de Nevers, “Private Security Companies and the Laws of War,” *Security Dialogue* 40, no. 2 (2009): 169–90.
- 37 Lehnardt, "Individual Liability" (note 36), at p.1031.
- 38 Cockayne, "Make or Buy?" (note 31); Percy, "Regulating the Private Security Industry" (note 33); Christopher Kinsey, “Challenging International Law: A Dilemma of Private Security Companies,” *Conflict, Security & Development* 5, no. 3 (2005): 269–93.
- 39 Cockayne, "Make or Buy?" (note 31), at p. 197.
- 40 Kinsey, "Challenging International Law" (note 38).
- 41 Renée de Nevers, “(Self) Regulating War?: Voluntary Regulation and the Private Security Industry,” *Security Studies* 18, no. 3 (2009): 479–516.
- 42 She compares PMSC and industry characteristics to industries where self-regulation has been successfully implemented, and argues that the private military and security industry lacks important motivational factors – such as the low threat of further governmental regulation – and differs in terms of industry characteristics as well as the characteristics of existing industry associations.
- 43 *Ibid.*, at p. 516.
- 44 Katherine McCoy, “Beyond Civil-Military Relations: Reflections on Civilian Control of a Private, Multinational Workforce,” *Armed Forces & Society* 36, no. 4 (2010): 671–94.
- 45 See: Anna Leander, “The Market for Force and Public Security: The Destabilizing Consequences of Private Military Companies,” *Journal of Peace Research* 42, no. 5 (2005): 605–22; Anna Leander, "Eroding State Authority? Private Military Companies and the Legitimate Use of Force" (Centro Militare di Studi Strategici, 2006); Anna Leander, “The Paradoxical Impunity of Private Military Companies: Authority and the Limits to Legal Accountability,” *Security Dialogue* 41, no. 5 (2010): 467–90; Anna Leander and Rens van Munster, “Private Security Contractors in the Debate about Darfur: Reflecting and Reinforcing Neo-Liberal Governmentality,” *International Relations* 21, no. 2 (2007): 201–16.
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- 47 Cutler, "Legitimacy of Private Governance" (note 23).
- 48 Avant, "Market for Force" (note 20).
- 49 David Isenberg, “A Government in Search of Cover: Private Military Companies in Iraq,” in *From Mercenaries to Market, the Rise and Regulation of Private Military Companies* (Oxford and New York: Oxford University Press, 2007), 82–93; Lindsay Cohn, “It Wasn’t in My Contract: Security Privatization and Civilian Control,” *Armed Forces & Society* 37, no. 3 (2010): 381–98; McCoy, "Beyond Civil-Military Relations" (note 44).
- 50 Ulrich Petersohn, "The Other Side of the COIN: Private Security Companies and Counterinsurgency Operations," *Studies in Conflict & Terrorism* 34, no.10 (2011): 782–801, at p. 793.
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