

Private Security Companies and Civil-Military Cooperation

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The key to achieving the stable, secure and self-sustaining environment that will break the cycle of conflict within crisis is a holistic approach towards addressing these emerging influences.
(Spence 2002: 165)

1 Introduction¹

Since the end of the Cold War the global security conditions have changed, leading to a continuing increase in the numbers of private suppliers operating in crisis areas and particularly in international interventions. The scope of services offered by private providers in the security sector ranges from consultation, training and logistic support to land mine clearance and combat missions. This results in a blurring of boundaries between military and civil tasks. A rising attention to private security companies (PSCs) cannot only be observed in the media, but also among scientific researchers and – in an early stage – in political debates. The use of PSCs in international interventions by some governments promotes further reflections on this form of security provision. As the war in Iraq has recently shown, the topic is of immediate relevance, supported by the fact that members of the coalition of the willing, and in particular the United States of America (USA), employ nearly 20,000 workers of private security firms. The conjunction of civil – particularly humanitarian – actors and military powers, which is defined by the term civil-military cooperation (CIMIC), entails a bunch of difficulties specifically in the settings of peace support operations (PSOs).

2 Heuristics

The starting point for the reflections in this article is the observation of the situation in Iraq regarding the outstanding level of operational readiness of so-called contractors. The current parallel discussions, which are on the one hand about internationally operating private security agencies and on the other hand about the often misleading CIMIC perception should be brought together on a more theoretical basis. Even if the Iraq mission is not one of the North Atlantic Treaty Organization (NATO), however, there are local con-

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stellations and possibilities, which make the theoretical considerations on the international deployment of PSCs that have been undertaken until today appear unsatisfactory. A factual and productive exchange of views about the advantages and risks of a deployment of PSCs has so far only been possible among a few experts, since a substantial debate is very difficult due to the elementary ethical and moral doubts against a deployment of PSCs in PSOs (Brooks 2000: 3). However, we should consider that: "It is only a matter of time before the next humanitarian crisis occurs in an area that falls outside the interests of the leading states. Whenever it happens, there is a strong possibility that the U.N. will either have to stomach its concerns about the unseemliness of privatized peacekeeping or face the prospect of watching thousands of men, women, and children die when the market could have saved them." (Singer 2003a: 9) In this article, the discussion is limited to private security companies as non-governmental actors of force in humanitarian interventions and/or PSOs. The focus is on the role PSCs can (increasingly) adopt in humanitarian interventions, if such efforts were integrated into the CIMIC concept of NATO. The concern will not be about the evolution of the term CIMIC since this has been already worked out comprehensively in different papers (see, *inter alia*, Hardegger 2003: 29–33). NATO is one of the dominating actors within the area of PSOs; that is why an analysis of its CIMIC conception seems appropriate.

PSCs must be paid attention due to their increased occurrence, which has been caused by smaller and so-called 'new' wars, especially with regard to their still sparsely used potential so far. Relations between civil and military actors have changed, creating different problems such as problems regarding the legal regulation and the control of PSCs as well as the status of the companies and the employees. These companies are ostensibly civilian actors in crisis areas, which have stated to be also operative in military fields of activity. The setting of PSCs as civilian cooperation partners to a military intervention troop is theoretically conceivable and – accommodating this – is practically converted (e.g., logistic support in Iraq). This constellation is thus a special case of CIMIC including local or transnational PSCs as civilian actors and the military intervention force. In the context of the CIMIC concept, PSCs can take over the role of civilian cooperation partners, which would result in fewer control and coordination problems (White/Witte 2005; Porteus 2005). The discussion about humanitarian interventions (see, e.g., Kimminich 1997) will not be taken into account, since the theoretical considerations in this article start from an intervention legitimately justified according to international law. The necessity of a military intervention and the assumption of 'civilian' tasks by the military in the operational area will be acknowledged in this article and shall also be used as basis. Finally, this

article wants to point out whether the CIMIC concept of NATO is suitable regarding the creation of awareness to the role that PSCs play as civilian actors in joint operation areas (JOAs).

The aim of this work is thus to achieve a better understanding of the private security industry in the context of humanitarian interventions, and to analyze fields which still need more attention. This is important because PSCs have a direct influence on the overall social interaction (Cook 2002). There are references to how PSCs and the CIMIC concept can be or are regarded individually. A combined analysis of the two has not been done so far. As said before, there is no systematic understanding of what range the private security sector has, in particular, within the international context. Nevertheless, there is sufficient evidence of their scope and problems. Likewise, there is no consistent interpretation of NATO's CIMIC doctrine. Dealing with principles of non-governmental organizations in connection with civilian-military cooperation – which is often falsely equated with the increasing takeover of humanitarian tasks or tasks of UN peace missions by the military – shows a lack of understanding and insight into military tasks in humanitarian interventions. The insights and assumptions that have, until now, only been gathered in fragments can be helpful – when summarized and reflected critically – in giving references to the question, under which conditions PSCs could/should find attention in the CIMIC concept and which advantages would be the result. The central and guiding idea is that PSCs have only public utility, if they are embodied institutionally. Therefore, definitions and statements on problems will be worked out on the basis of the international literature. The results of this theoretical approach will be reflected in the further process of this article in order to answer the question whether and when it is conceivable and meaningful to include private security companies in the context of CIMIC.

3 Literature and State of Research

Peacekeeping and peacebuilding missions under Chapter VI and VII of the United Nations (UN) statute fall in the range of the conjunction of military and civilian mission components, and this is from where the CIMIC concept of NATO arises (Spence 2002; Vaux et al. 2002). Detailed international investigations about the effects of PSCs' high profile in the context of humanitarian interventions are missing completely until now.² There are only anecdotal examples in the literature regarding the cooperation of the military

2 There is an effort by Spearin (2001), but he only describes the activities of PSCs in the international context, too.

and PSCs in a mission country. The possibilities of using private suppliers of security are discussed in international newspapers only in times of crises (Spearin 2001: 40). This becomes apparent through the increase of articles about PSCs since the Iraq intervention. Although it is very difficult to make substantial statements about the security sector (Trevor/Newburn 1998: 2), one can recognize a slow advancement in this perspective. The majority of the literature deals with PSCs in established democracies, i.e. at home and/or – in reference to mercenaries – also in foreign countries.³ There exist mainly media reports, which shape the picture of the PSCs as mercenary troops and influence that numerous papers work with allegations rather than detailed arguments.

4 Private Security Companies in Situations of Military Occupation

It must be stressed, that the debate on the activities of private security companies in armed conflicts and/or in situations of military occupation and post-conflict reconstruction has only just begun, and a fundamental and exhausting discussion – without the usual empty phrases – remains necessary. What must be noted in the first place is that private security companies are only one segment in the range of private security. In order to explain the spreading of private security companies in the past decade, a multi-causal approach is required. Therefore, the most diverse reasons for the emergence and spreading of PSCs in the international area can be found in the literature. Below, those reasons will be listed at a glance (Kümmel 2004). The impetus of this global development is due to a progressive reduction of the military and the outsourcing of certain tasks since the end of the Cold War. Additionally, the growth of the private security industry thereby is advanced through a redundancy of an enormous worker pool with a vast range of military knowledge (Kümmel 2004).

At the same time warfare is transformed by the fact that the distinctions between civilians and combatants are lifted (Deutscher Bundestag 2005; Cook 2002; Singer 2005a). Thus, the literature refers particularly to the fact that there are less interstate, but rather domestic and/or transnational wars, which shape the scene. In this perspective, one also speaks of the occurrence of ‘new wars’ (Kaldor 2000; Münkler 2002). Another reason is the greater demand resulting from increased security needs of international organizations and enterprises active in conflict areas. These security needs cannot be met

3 Cook (2002), e.g., talks about private military firms, but also means private security firms, and calls them ‘today’s mercenaries’.

sufficiently by an overburdened military (BBC News 2004b). In addition, the situations in the mission countries, e.g., in Iraq, are “unusual in that there was an ‘unprecedented’ number of civilians operating there” (BBC News 2004b). What must be quoted furthermore is that “the ‘Dudley Do-right euphoria’ of the early 1990s has given way to retrenchment and pragmatism” (Smith 1998: 66). This leads to a lack of interest in the international scene, in particular in wars, which are distant from the important centers of power in the world. PSCs can be seen as a real alternative that is able to fill this interest vacuum with activities. In the literature the vacuum thesis (private enterprises take over waived security areas) and the market thesis (a demand is created by an appropriate offer through the security company) are used oppositional. However, both must surely be used to explain the emergence and spread of PSCs in the international context.

Apart from the preceding arguments, the privatization of security services must be seen in the context of a general change in state and administrative law. The attitude towards government monopolies has changed (Lindner/Vaillancourt Rosenau 2000: 2). This causes a domino effect, which does not stop at the police’s force monopoly (Shearing 1992: 408–421; König/Benz 1997: 40). Bendrath (1999: 253) describes this process as globalization of capitalism through which the military, too, comes in the same suction of the outsourcing euphoria.

Below, actions of private security companies in the international context will be pointed out and categorized in a way, which is missing in many representations. The presentation of the different activities of the PSCs will be kept short, since activities will be regarded according to the ones done on a national level.

5 Specification on PSCs

“Private security includes those self-employed individuals and privately funded business entities and organizations providing security-related services to specific clientele for a fee, for the individual or entity that retains or employs them, or for themselves, in order to protect their persons, private property, or interests from varied hazards.” (Task Force Private Security 1976) The multitude of the literature gives the impression that the phenomenon of private security companies covers both the commercial PSCs and other forms of private security up to the private army (Bergen Thirion 1998). Therefore, an attempt of defining the commercial PSCs analyzed in this article seems to be appropriate. The definitions set up so far shed light on the way in which PSCs are seen, and on the principles that form their basis.

On the one hand an adequate definition of PSCs comes off by simply describing their tasks, their operational areas, the way they are operating, etc. On the other hand, a distinction through the services they provide seems logical, but not sufficient, due to some overlap with private military firms (PMFs). The professional character of private firms is considered as the primary distinction and definition element, i.e. the exercise of guarding activities for the achievement of profit. Meanwhile, there is an equating of the terms security and guarding business, although the guarding sector is only a part of the security industry. Schreier/Caparini (2005: 2) make the following distinction: "PSCs are companies that specialize in providing security and protection of personnel and property, including humanitarian and industrial assets. PMCs are private companies that specialize in military skills, including combat operations, strategic planning, intelligence collection, operational support, logistics, training, procurement and maintenance of arms and equipment." This functional approach is helpful in the beginning, but a more extensive research should ask for the relationship of the PSCs with other institutions. It is essential to distinguish private security companies from other private legal or illegal forms of 'security providers' (BBC News 2004b).

There are some attempts to set up typologies (Shearer 1998b: 25f.; O'Brien 2000b; Weingartner 2004; Kümmel 2004; Singer 2003a: 91–100). Those are not always useful for the understanding of PSCs. For example, the simplest distinction between PSCs and PMFs is based on passiveness versus activeness and is completely of no use in the international context (Schreier/Caparini 2005: 33). Nevertheless, this typology is used in many articles and advances the mix-up of PSCs with other forms of private force actors – in particular mercenaries (BBC News 2004b; Cook 2002; Sandoz 1999a; Spearin 2000, 2001). Singer (2003a: 45–47), e.g., distinguishes between private security companies and mercenaries through the fact that the deployment of PSCs takes place mostly outside the fighting zones in an international armed conflict. He supplements that PSCs are organized as business entities; are not primarily motivated by individual profit seeking but by striving for profit for the enterprise; have a larger range than mercenaries in the security services offered; approach a larger clientele; recruit their workers in a more professional and more systematic way; act in an open market situation; and can prove institutionalized property and ownership structures and are networked with other companies or are part of a larger enterprise. (see also Schreier/Caparini 2005: 37f.; Kümmel 2004: 12f.) Singer (2005a) understands the range of private security services as a continuum, which is marked by three intervals. The difference between these three segments lies in their distance from the actual conflict and combat. He thus differentiates between

Military Support Firms, Military Consultant Firms and Military Provider Firms. PSCs are therefore the furthest away from the scenes of combat, as Kümmel (2004) points out in a further revision of Singers' typology. He also regards this classification as insufficient.⁴ For him PSCs are those companies, which take over tasks of implementing and commanding direct police and guarding functions. PSCs are at present active in countries and/or regions of dangerous conflict situations, where they can run into mischief and thereby run the risk of becoming active parts in the local or regional conflict and combats. Transnational companies are typical customers of these PSCs, but also humanitarian organizations and non-governmental organizations (NGOs). (Kümmel 2004: 13)

By contrast, Wulf's (2002: 97f.) categorization is so far the most detailed one. He differentiates besides security firms/watchmen (protection and surveillance in public places as well and crime prevention and execution service) four other categories of private forces: private producers of defense (weapon production and military assistance), private military companies (consultation and logistics, technical services, training, combat troops), illegal participants (rebels, warlords or the organized crime) as well as mercenaries. (see also Schreier/Caparini 2005: 39–41)

Public opinion and the media (open-minded or not) can put pressure for the regulation and a more tolerant perception of PSCs. However, it is really up to the industry to determine their own reputation, so it will not come to a further confusion of the EO-marked PMCs (offensive military style operations) with the accepted and accurate PSCs (defensive security services). If you have some nasty ones, it spoils the image of all others, no matter if the military is much worse.

4 See also Schreier/Caparini (2005) who think that Singers's typology is a good starting point for their research.

6 Range of Services Provided by PSCs on the International Level⁵

Private security companies are in many ranges internationally active today. The emphasis of their activities is related to logistics. In the light of internationally limited national resources and the progressive mechanization and specialization of military tasks, a further rise of the demand for other services of the private security companies is likely to happen in the future: "PSCs with a bias towards more sophisticated security services train police, security, and paramilitary forces; protect critical national infrastructure; guard hazardous convoys, protect delegations of all kinds, and multinational corporations engaged in mining, energy production and transport; provide security for companies operating ports, railheads, and airstrips; and carry out airborne surveillance and reconnaissance missions and other security operations like liberating hostages." (Schreier/Caparini 2005: 29) PSCs also take over tasks in property protection or the guarding of prisoners (Buro 2004). The guarding of transports of aid supplies in crisis and war regions offers a large operating area for PSCs (ICRC 2004). Likewise, by now transnational companies and their facilities in crisis regions (as for instance oil pipelines or business buildings) are guarded by private security. NGOs and international organizations, including the United Nations, employ private companies in order to secure their buildings and staff in peace missions.⁶ Even governments increasingly

5 For comparison, in the Republic of South Africa, the tasks of PSCs (security service) include as per Private Security Industry Regulations Act, No. 56 of 2001: "(a) protecting or safeguarding a person or property in any manner; (b) giving advice on the protection or safeguarding of a person or property, on any other type of security service as defined in this section, or on the use of security; (c) providing a reactive or response service in connection with the safeguarding of a person or property in any manner; (d) providing a service aimed at ensuring order and safety on the premises used for sporting, recreational, entertainment or similar purposes; (e) manufacturing, importing, distributing or advertising of monitoring devices contemplated in section 1 of the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992); (f) performing the functions of a private investigator; (g) providing security training or instruction to a security service provider or (h) installing, servicing or repairing security equipment; (i) monitoring signals or transmissions from electronic security equipment; (j) performing the functions of a locksmith; (k) making a person or the services of a person available, whether directly or indirectly, for the rendering of any service referred to in Paragraphs (a) to (j) and (l), to another person; (l) managing, controlling or supervising the rendering of any of the services referred to in paragraphs (a) to (j); (m) creating the impression, in any manner, that one or more of the services in paragraphs (a) to (l) are rendered" (South Africa 2002: 9).

6 Through this neutrality shall be better ensured in the crisis area, in particular in the perception of the parties involved in this conflict, as compared to securing by government troops of the mission country.

assign private security companies in order to conduct sensitive tasks in other countries.⁷

7 The Debate on the International Engagement of PSCs⁸

Supporters of the deployment of private security services in humanitarian interventions and/or PSOs state that these private companies are qualified enough and also act that way (BBC News 2004b; O'Brien 2000b). According to their opinion it would make more sense to use these specialists instead of deploying or building-up the military for civil defense. The military, in turn, should concentrate on its core capabilities: "Not all military functions can be privatized. Military core functions as well as those that are 'mission-critical' should be banned from privatization. Outsourcing of military support functions to the private sector can be undertaken, except for activities that are (...) directly involved in warfighting, or for which no adequate private sector capability exists or can be expected to be established. Where to draw the line, is not easy to define. But Abu Ghraib has clearly shown the dangers that may result from privatization." (Schreier/Caparini 2005: 88) In the same way the opinion about private services is outdated when stating that PSCs are a "bunch of cowboys running around the country shooting people" (BBC News 2004b). Thus, PSCs (understandably) do not like to see themselves compared to mercenaries and try hard to perform in a more transparent and self-regulating way.

At the same time cost-effectiveness is mentioned as a reason for the increase in the activities of the PSCs. This means that they operate in a much more effective and efficient way (Engelhardt 1997: 4). This is not verified on the level of political economy because no extensive research exists which includes a calculation of the financial costs and effects of PSCs' activities.

Opponents to the deployment of PSCs abroad mainly state that the privatization of military functions can change the relationship between the military and the nation-state in the long run (Schreier/Caparini 2005).⁹ The state monopoly of force is undermined by PSCs. The spread of the private security industry after the World Wars had a fundamental impact on the nature of the modern forms of social control and on the nature of sovereign control of the

7 This instrument is used if troops cannot be used due to a possible absence of parliamentary or public acceptance, or because an accusation to violate the sovereignty and the territorial integrity of another nation-state should be avoided.

8 Discussions on the use of PSC on the domestic market for the fulfilment of functions for the interior security are mapped in Schreier/Caparini (2005: 80–86).

9 The mix-up of the terms PSCs and mercenaries leads to many discussions about the rotten apples of the industry.

society. Many critics stress that security is a public good because it is for all, whereas PSCs can only secure the interests of the clients they protect (Engelhardt 1997: 5). Since Hobbes, there is the opinion that the nation-state has a duty of guaranteeing a legally arranged protection of the individual. This duty is the historical basis for the authority of the government.¹⁰

An international-law regulation to handle PSCs or their employees in armed conflicts does not exist so far, and only a few states have national regulations for this industry. Therefore, there are substantial uncertainties concerning the status of the persons (contractors) employed by private security companies involved in the conflict, and further concerning the responsibility and, thus, the liability in case of (human) rights' violations.¹¹

Another point of criticism is closely connected to the previous one. The control of the activities of the PSCs through to national law – if available – is made more difficult by the deployment abroad (Singer 2005a). The compliance with the guidelines can only be controlled rudimentarily and the legal prosecution of offenders is difficult. Many governments ban the deployment of their citizens as mercenaries, but they rarely control the activities of 'their' PSCs abroad. The criticism on the lack of control also points in another direction. With the deployment of PSCs instead of western armies, there is a covered exerting of influence in conflict situations, in which a direct interference is not possible or would be too risky for political or international-law reasons (Ruf 2003: 87). This not only entails that thereby the political leadership in western democracies gets rid of its responsibility, but this also means an evasion of democratic control mechanisms (Singer 2001: 218). Furthermore, the public does not know about the whole extent of the intervention, since, e.g., the death tolls of PSCs do not attract as much attention as if "American soldiers are sent home in body bags" (Wayne 2002: 3). The responsibility is, therefore, privatized simultaneously (Wulf 2003: 6; Singer 2005a; Wayne 2002: 3). In addition, a change occurs in the *ius in bello*, which seems to be undermined by private security companies. It must be prevented that PSCs can act unrestricted due to missing international-law regulations and thus are able to undermine the existing international law of war, to which the military is bound.

10 Sørensen (2001) analyses the statements of Hobbes on internal security dilemmas and their role in the international relations to offer an introduction to the discussions about the monopoly on the use of force.

11 Concerning the status of PSCs, Oulton/Lehmann (2001) give the solution that the so-called SOFAs (Status of Force Agreements) can be extended to PSCs, which would give them the official protection as civilians.

The monitoring of the non-violation of human rights by PSCs is likewise seen as a problem (UK FCO 2002: 17; Singer 2003a: 7). The concern is not only that the contractors of PSCs are all seen as criminals, but rather that it is currently difficult to control and, if necessary, prosecute them. This monitoring, as shown below, can be made possible by sufficient regulation and/or licensing combined with a strong enforcement of these regulations. Besides, it is also problematic that private security companies are in a conflict of interests: on the one hand they are paid due to their success, on the other hand conflict areas are their field of work. Therefore, PSCs could have a keen interest in the extension of a conflict. Also the concern about the supply of a public good by privates is raised in the discussion about the supply of services by PSCs in the mission country (Singer 2003a: 8).¹² Thus, it is claimed that profit-seeking PSCs cannot always act in the interest of the customer and are definitely not interested in providing a public good (Singer 2005a). However, this argument ignores that on the one hand PSCs are interested to receive a good reputation and that, on the other hand, their work could be monitored by certain control mechanisms. The tasks of the PSCs are inherently not to supply services for the public.

The profit-seeking motive is condemned. However, there is nothing wrong with the profit motive as long as the goals are fulfilled. It is rather the following issue that arises: “Nevertheless the fact that a force is private or foreign does not prevent it from being under the control of the state and although such arrangements may not be ideal they may be far less damaging to sovereignty than an unchecked rebel movement.” (UK FCO 2002: 15) Although not a supporter of the deployment of PSCs for the protection of humanitarian workers, Spearin is one of the few critics who refers to the fact that “there is no denying the professionalism of PSCs and the pragmatic appeal of a PSC/humanitarian compact” (Spearin 2001: 22). He also nullifies the prejudice that PSCs are not different from mercenaries.¹³ This leads to an insufficient observation of the PSCs and, therefore, an imprecise regulation through the international community. Besides some good words for the PSCs, he takes for granted that especially in connection with humanitarian actors the deployment of PSCs is a problematic solution, because of the possible modification of the NGOs traditional values of impartiality, neutrality and independence (Spearin 2001: 22). In the same way, effects on the nature of peacekeeping missions are stated as arguments against the use of PSCs (Singer 2003a: 5).

12 The integration of better-paid private forces into the regular troops of the UN can lead to frictions between the forces. Moreover, the question arises to whom PSCs are subordinated.

13 By contrast, Sandoz (1999a, 1999b) sees all private security firms as ‘new mercenaries’.

Further points of criticism concern the influence on the equilibrium of power in the mission country, since – according to Wulf (2003: 7) – through the deployment of private actors of force, existing economic power can more easily be converted into military power. The deployment of private security companies consistently affects the process of conflicts in a crucial way. Due to high performance weapon systems private security companies are often able to determine an armed conflict, although its strength hardly goes beyond battalion size. (Deutscher Bundestag 2005) Also the point of criticism that there is a submission of warfare and peacekeeping to the rules of the market aims at the PSCs' form of organization: "The critical factor is their modern corporate business form. Globalization and deregulation of international markets have been instrumental in facilitating the restructuring of mercenary activities and has made it possible for PMCs to constitute large corporate groups operating across many states. (...) Corporatisation (...) offers clear advantages in both efficiency and effectiveness. (...) an overall ideological environment marked by the conviction that markets and efficiency are prime criteria for judging the desirability of any project. This has been crucial in making the private military industry thrive and in spreading the idea that they are basically businesses like any other, to be judged on the basis of a price-quality relationship just like any other firm." (Schreier/Caparini 2005: 7) Examples of a rather polemic criticism are to be found in the statement that the use of PSCs leads to a rise in their reputation and, therefore, to an increase in the participation of these companies in conflicts, and furthermore in the statement that the deployment of PSCs has to be seen as a "forme brutale de recolonisation de leur continent" (Chapleau/Misser 2001: 235).

8 Regulation of PSCs in Foreign Countries

All analysts share the opinion that a strict prohibition of private security companies is not enforceable, since many actors in crisis areas rely on the protection granted by PSCs (see Spearin 2000). They demand clear legal regulations on the international and national level(s) that clarify, under which conditions private security companies are allowed to operate. Regulations on the international level concern questions regarding the authorization (permission for carrying weapons or carrying out measures against the population as well as controls) and the legal status (combatant or civilian status) of the employees of the private security companies as well as the take-over of responsibility for their actions (the individual person, the company or the assigning state/company or organization): "[W]hat is most surprising is that this industry, so central to national and global security, is completely unregulated.

No international laws apply. National laws are little better, with the majority of states, (...), having none that fully controls the firms.” (Singer 2004c: 1)

PSCs, thus, act in a legal gray area and from this most problems and points of criticism result (Ruf 2003: 88). If it comes to a sufficient legal regulation with a strong enforcement of these regulations, the discussion about PSCs would take a different course. Control and/or security more and more become commodities, so the legitimacy of the security industry – and the PSCs in particular – is not questioned in general anymore. Instead of debating whether PSCs should be used, it is to be discussed how and where they could be used. The acceptance of commercial private security not only reflects a realistic pragmatism, but also has a quite fundamental meaning. The state indeed has a monopoly of force but not a security monopoly. If security becomes a commodity, its production is subject to the laws of the market and a polemic approach to it would not be easily possible any longer.

Concerning the possibility of a prosecution by the authorities of the mission country in which the act was committed, it can be said that usually a responsible jurisdiction does not exist. PSCs admitting mistakes is good, setting standards is even better, but unmistakably defining and communicating the clear line between professional and amateur private security contractors to the public they serve is best. There are some examples of bad behavior like the Bosnia-sex-slave scandal with DynCorp employees in the 1990s (Luyken 2004a; Singer 2001: 215). The constitutional disciplining of PSCs is, thus, – generally speaking – difficult, but not impossible, as South Africa shows. A legal regulation must among other guidelines include specifications on reliability tests of business individuals and entities. Furthermore, statements must be given concerning basic training, the permission of bearing arms, the registration and record-keeping requirements as well as data security, the permissions for making arrests, for the avoidance of corruption and for the influence of competition on business practices.

There exist three fundamental models concerning legal regulation: first of all the model of the Adam Smith School, which leaves the order to the forces of the market; second, the model of the Fabian School, which favors the regulation by the state and/or its institutions; and third, the model of self-regulation of the industry (Turner et al. 2005). Most critics are not content with the third – but so far the most common – model. Additionally, regulation through the forces of the market does not ensure sufficient regulation of the PSC sector (Schreier/Caparini 2005: 26), so actually the governments of the nation-states and/or the international community is in for regulation and control.

9 The CIMIC Concept of NATO

The conception of a Civil-Military Cooperation (CIMIC) (Hardegger 2003) proceeds from the consideration of a division of labor and responsibilities. The philosophy and/or the starting point of NATO's CIMIC concept is shown in the following statement: "The term peace-support operations embraces a wide spectrum of tasks. They comprise traditional peacekeeping – where there is an agreed peace to keep; what the British used to call wider peacekeeping, where the environment is highly volatile; peace-building – reconstructing society after conflict and returning it to normality; and peace enforcement – the termination of a conflict by force. (...) Peace-support operations in complex emergency situations are joint – they involve all services; they are combined – they involve many countries; and they are something else, a new adjective, integrated – involving many different agencies. These include armed forces, police, non-governmental organizations (NGOs), aid agencies, international organizations, government development agencies, private industry and other companies, and the media." (Bellamy 2001) CIMIC – simply spoken – is thus the coordination and cooperation of a NATO commander with all civilian actors in a given operational area.

The central idea of CIMIC is that the means and possibilities of the armed forces are used only subsidiary to civilian facilities. Therefore, the deployment of the military is terminated as soon as other – civilian – forces can take over the tasks. Forces, which are meant for peacekeeping by military means, should not be bound over a long time to services, which could also be supplied by civilian providers. In general, it is, thus, aimed at a responsibility assignment, which facilitates both sides to fulfill their actual missions. "The dramatic changes of the global security environment in the last decade have resulted in the revision of the strategies and doctrines of most military forces and alliances. In most cases, these changes are still underway. Of particular importance are the military doctrines of the NATO and EU alliances. The revision of NATO CIMIC doctrine is still underway and the doctrine that will govern the missions that the new EU force will inherit from the Petersberg Tasks of the WEU has not yet been established. This is a fleeting and opportune time to influence these debates." (Deza 2002: 19)

Within a few years NATO was able to become the decisive military organization in Europe in the area of PSOs. This seems self-evident, but it is, however, remarkable with regard to the much discussed 'out of area'-syndrome at the beginning of the 1990s (Appathurai 2001: 184). Many observers argued at that time that NATO could not become operationally active outside its borders. The development of NATO from a defensive alliance to a participant in crisis reaction led to the cancellation of the self-selected restric-

tion and to the realization of an 'out of area'-mission for the first time in December 1995 with Implementation Force (Ifor) in Bosnia. (Hardegger 2003)

According to the present-day level of development – the CIMIC 2000 (Braunstein 2000) – two papers form the CIMIC doctrine: the MC 411/1 and the AJP-9 (NATO 2002: § 14)¹⁴ Aims and definitions of the NATO's CIMIC concept are specified to a large extent in MC 411/1. Thus, CIMIC is “[t]he co-ordination and co-operation, in support of the mission, between the NATO Commander and civil actors, including national population and local authorities, as well as international, national and non-governmental organisations and agencies” (NATO 2001: § 102). Hence, “[t]he immediate purpose of CIMIC is to establish and maintain the full co-operation of the NATO commander and the civilian authorities, organisations, agencies and population within a commander's area of operations in order to allow him to fulfill his mission. The long-term purpose of CIMIC is to help create and sustain conditions that will support the achievement of Alliance objectives in operations.” (NATO 2001: § 103)

Hence, CIMIC, clearly helps the commander to execute a military order. NATO's CIMIC doctrine plans an involvement of the intervention force in activities, which are not directly related to the security issues only as long as it is absolutely necessary. Where it is possible the mandated civil authorities or organizations should be supported in their tasks by the possibilities and capacities of CIMIC troops. A direct take-over of tasks, which do not concern security issues, is only intended in extraordinary situations (NATO 2002: § 11). The formulation in the MC 411/1 does not permit a more exact transcription of tasks in the security domain. The cooperation with civilian actors requires a high flexibility and leeway in the organization of corporate projects, which are only goal-obliging. However, the means and methods of implementation are left undefined (Braunstein 2000; Baarda 2001).

Demands often arise particularly in the arrangement of abstract programs, for which forces and means are only made available situationally. In the AJP-9 it is pointed out that the selection of the cooperation partners is dependent on the kind of the crisis and the associated civilian and military operations. In this statement the openness of this concept becomes clear and permits the introduction of the discussion about PSCs as cooperation partners.

14 The AJP-9 frames the actual concretion of the CIMIC doctrine and contains guidelines for the planning and conducting of CIMIC in missions in which NATO is involved. MC = Military Committee Document, AJP-9 = Allied Joint Publication 9.

10 The Role of PSCs in CIMIC

There arise at least four possibilities for the examination of PSCs in the context of CIMIC, if it is understood that CIMIC-troops are only used if civilian possibilities are not available and also that the deployment of the military is terminated as soon as the tasks can be taken over by civilian actors. So both local and international PSCs can act as independent civilian actors in PSOs. These would be situated in the mission country – besides NGOs and international organizations (IO) – on behalf of nonresident companies or institutions to secure, e.g., (aid) transportations or mines. Secondly, it is conceivable that PSCs are active on behalf of local resident companies, NGOs and other civilian resources in the area. Thirdly, it is conceivable that PSCs become active as part of the troops in the mission country – like the discussion about the use of PSCs due to the outsourcing of European military has shown. This is also to be seen with the US army in Iraq. “The rapid expansion of PSC engagement abroad is best exemplified in today’s Iraq. There, the private military and private security industry combined has contributed more forces than any other member of the U.S.-led coalition and is nearly equal to the number of the militaries of all the states except the U.S. combined. (...) almost all PSCs are on the U.S. payroll, either directly or indirectly through subcontracts with companies hired to rebuild Iraq. (...) In practical terms, these convoluted relationships often mean that governmental authorities have no real oversight of security companies on the public payroll.” (Schreier/Caparini 2005: 30)

Lastly, PSCs can become active as functional specialists in the CIMIC forces: “Functional specialists are deployed because a specific requirement for their expertise – which cannot otherwise be found within the area of operations – has been identified. They may come from a wide range of sources and are not necessarily military personnel. They may be required to assist in assessments, analysis, or the planning process or they may be required for the execution of specific projects.” (NATO 2001: § 105) Specialists accompany the deployment only temporally limited and order-dependent. Specialists are needed on the one hand for the consultation of the senior management of the CIMIC troops and used on the other hand also in project management. Such a project can thereby be – from a military view – necessary for the fulfillment of the core competencies of the troops or a support measure for civilian structures. (Braunstein 2000)

There are different approaches in the CIMIC concept in order to solve the problem of controlling PSCs. On the one hand, there are the *Lead Agencies*, which means that there is a department, which is mandated by the international community in order to initiate the coordination of activities of civilian participants. Possibly, the monitoring function could be given to this

mandated agency. CIMIC offers the possibility to integrate PSCs, which will remain on-site after the pullout of the intervention troops. Thus, the desired sustainability of the activities during the intervention could be achieved, at least those concerning the security situation. The US Defense Department, e.g., expects to rely increasingly on contractors to advise Iraqi officials and train Iraqi security forces as US-troops are drawn down. Ultimately, CIMIC is also a substantial instrument in the exit strategy of international operations and supports trust-building measures as well as an increase of acceptance: “The achievement of the military objectives and the creation of a secure environment do not guarantee the establishment of self-sustaining peace. But without security (and justice), the reconciliation and other development programmes necessary to create a self-sustaining peace are unlikely to be effective. However, once the security-related military objectives have been achieved, the attainment of the political end state will require the mission’s main effort to be switched from the PSF to the peacebuilding activities of the civilian components of the mission. Without such a switch of main effort and a commensurate switch of funding and resources, the operation is unlikely to progress beyond that of a military stalemate.” (ISS 2000: § 0206–0208)

The CIMIC concept of NATO applies to peace support operations, which can cover both peacekeeping and peace-enforcing measures, as well as conflict prevention, peacebuilding and military humanitarian operations (ISS 2000). It becomes clear that in particular in peacekeeping measures according to Chapter VI of the UN Charter, through which the military troops are only given the right to use force in the case of self-defense, and which are usually realized with a small amount of troops, PSCs are necessary for the reinforcement of security. In the mission in Iraq, which can be called a peace-enforcing mission (even though not a NATO one), it is plain to see that complications arise, if PSCs operate without at least local arrangements with the military troops.

A further advantage of the deployment of PSCs exists for civilian humanitarian organizations, which see their work complicated by the presence of military troops, because the military stands against the principles of impartiality, neutrality and independence. These values are traditionally the basis of the work of any humanitarian organization. (Weiss 1999: 3) The increasing number of attacks on humanitarian workers however shows that without the presence of external military troops the core values will not protect the humanitarian workers in the mission country. The deployment of PSCs would be a response to these attacks, and this definitely needs further research (Lilly 2000a). Another advantage is that PSCs are even more flexible and faster-reacting than the military, about which is already stated: “armed force often possess an abundance of precisely those resources that are

in the shortest supply when disaster strikes: transport, fuel, communications, commodities, building equipment, medicines, and large stockpiles of the off-the-shelf provisions. In addition, the military's 'can-do' mentality, self-supporting character, and rapid response capabilities, as well as its hierarchical discipline, are essential assets within the turmoil of acute tragedies." (Weiss 1999: 17) Conceivable tasks for PSCs in PSOs would be – among other duties – in the sphere of conflict prevention by operational readiness, by the realization of trainings, for mine clearing operations and in security sector reform.

11 Summary

It is possible that PSCs are deployed in the context of CIMIC as civilian components in PSOs. There may be ups and downs, but the PSCs (under whatever name) will continue to operate for many years to come. Neither the UN nor any other nation will soon fill the gap the PSCs fill any time. The theoretical debate on PSCs in the international context is way behind reality. However, for some countries there is research on PSCs working on the domestic market. That is why it is astonishing that the debate about PSCs operating in areas of international interventions cannot be brought about the point of stating polemics. This prevents intensive work on the phenomenon of PSCs in this context and leads to the blindness on their potential and, thus, to a non-optimal use of PSCs.

The private security industry will not simply disappear but will experience a further expansion. So their services will get even more indispensable. The general aversion for PSCs has to be put down to get to the answer of the question of how to use PSCs in the most effective way: "Peace operations represent an area of activity in which the use of PMCs would bring benefits. The three areas of activities in which PMCs have worked in peacekeeping operations are logistical support; security and policing functions; and military support. (Lilly 2000a) PMCs can provide capabilities such as planning, security, force protection, logistics, engineering, medical and paramedical support, as well as air and ground transportation. Equally important, PMCs can also provide reconnaissance, surveillance, and intelligence capabilities to monitor cease-fire and truce implementation in disengagement zones." (Schreier/Caparini 2005: 132)

Furthermore, the transformation of security into a commodity can be seen as a deficit of democracy if the model of the Westphalian state is the basic concept (Kempa/Shearing 2002: 33). But outside Europe this model only finds limited application. Thus, it can be assumed that in areas where PSOs are conducted, a return to some form of the hegemonial state order and

its institutions is barely possible immediately. Rather a discussion of possibilities is necessary to elaborate in which way market mechanisms could be used in order to reach a settlement of threatening situations in the mission countries, keeping in mind that these situations beyond the 'borders' are also endangering international security: "However limited, influencing the behaviour of would-be subcontractors is a feasible step toward enhanced international peace and security. Limited checks and balances are preferable to unregulated unilateralism." (Weiss 1999: 28) NATO's CIMIC concept is one of those possibilities.

Concerning crisis and conflict management the deployment of PSCs for keeping or producing stability and for purposes of peacekeeping in failed states requires that the international community reconsiders their actual mechanisms and adapts them to the current development. After all, it is all about the issue of who has or should have the legitimate control and can execute the power (Wulf 2003: 6). It is true that the government's monopoly of force is eroding increasingly but on the other hand a global monopoly of force does not exist yet. The CIMIC-concept refers to the fact that civilian forces in PSOs should take over more tasks in general, which opens the discussion to the deployment of PSCs in NATO missions. Therefore, it would be of (scientific) interest to get some suggestions about the possible shape of a system to control and regulate PSCs in the international sphere. Although CIMIC claims to take into account the new developments in the range of peace support operations, it has to be slightly changed to attract interest of PSCs as civilian actors. The aim of all efforts must be the carrying out of optimal assistance in emergencies, independent from who is helping.

There is a future perspective for private security companies, although it may be not very clear. PSCs under legal control and government oversight, etc., are a sophisticated instrument to solve many problems, which could not find their settlement in any other way. There will be an ever-rising role of PSCs in the world. The state of peace is a complex system and PSCs are sometimes the best way to achieve it. There should be no prejudices against PSCs but rational concepts of their use under legal conditions.