



## Regulating the Trade in Soldiers

### Lessons from Efforts to Regulate the Arms Trade

Ameem Lutfi

## Series Introduction

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### The Changing Character of War in the Middle East and Beyond

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Since the privatisation of the American war in Iraq, the commercial market for force in the Middle East has grown exponentially, raising critical regulatory concerns. In addition to protecting people and infrastructure, for instance along China's Belt and Road, some security contractors now even perform combat-related services such as communications support and drone operations. While professional contractors promise greater flexibility and cost-efficiency than traditional armies do, we have also seen shadowy contractors and mercenaries being deployed with plausible deniability by the likes of Russia and Turkey in places like Syria and Iraq.

This series of *Insights* brings together academics and industry practitioners to explore the possibilities and challenges presented by such privatisation of the state's monopoly on the use of force.

*Cover photo: A Hughes-500 helicopter belonging to DynCorp International, one of the private security companies that protect US embassy staff and convoys in Iraq, flying above Baghdad on 18 January 2012. Ahmad Al-Rubaye / AFP.*

# Regulating the Trade in Soldiers

## Lessons from Efforts to Regulate the Arms Trade

Ameem Lutfi\*

*The rapid growth of the private military and security industry has outpaced states' ability to regulate the booming trade in the means of violence. Why regulate, who should be regulated, where and how should these regulations apply and what exactly should be regulated remain both debated questions in political circles across the world with no easy answers. This article argues that to outline the key terms of the debate we should start by looking at the century-long negotiations aimed at regulating the trade in private arms, which hold important lessons on how even the best-intentioned plans to restrict marketised violence can do more harm than good.*

**I**n 2001, a UN international convention first conceived in the 1970s by nascent African states came into force. These states were hoping the convention would secure their monopoly over the legitimacy of violence by outlawing the use of profit-motivated foreign soldiers in separatist struggles and in resource extraction by multinational firms.<sup>1</sup> However, since coming into force, the UN International Convention against the Recruitment, Use, Financing and Training of Mercenaries has been signed by only 36 countries. Its appeal is limited partly because the private military and security industry has changed drastically from what its original advocates had imagined.

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<sup>1</sup> See document on the website of the Office of the UN High Commissioner for Human Rights at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/Mercenaries.aspx>.

### Call for Papers

## Doha's Diversification Drive after D tente

Proposals are invited for papers to be featured in an upcoming series of *Insights* focused on Qatari policy in the wake of the Al-Ula summit, which signalled the end of the blockade imposed on Qatar by the quartet (Saudi Arabia, the UAE, Egypt and Bahrain) in June 2017. The series is aimed at uncovering the various pathways to diversification — economic and otherwise — that Qatar undertook during and after the blockade. Submission topics include, but need not be confined to:

- Geopolitics (Is regional unity perpetually fragile? Has Doha identified reliable extra-regional actors?);
- Port development and the diversification of trade routes;
- Food security, procurement and management of capital-intensive food supply chains;
- Upscaling LNG infrastructure and prospects for a hydrogen economy;
- Security cooperation (strengthening existing partnerships and broadening of ties with “newer” partners).

Interested persons may submit proposals (not more than 250 words) clearly outlining their main arguments. These should reach us by **23 August 2021**. Successful proposals will be given a second deadline for full paper submissions (2,000–3,000 words, excluding footnotes).

See [this link](#) for further details.

Email your proposals and questions, if any, to the Series editor: Dr. Clemens Chay at [Clemens.chay@nus.edu.sg](mailto:Clemens.chay@nus.edu.sg)

Far from being a niche business active only in developing African states, private security has emerged as a multibillion-dollar global industry over the past decade.<sup>2</sup> Having earned greater legitimacy with the privatisation of the US war in Iraq, private military and security companies have expanded their roles in various areas. Along with guarding mines and oil rigs in dangerous places, they perform a range of functions today: running logistics and transport routes, conducting intelligence and surveillance operations, managing high-profile events, collaborating with insurance companies in ransom negotiations, controlling borders, running internment camps, training local security forces, acting as security consultants and offering a host of other services in “complex environments”.<sup>3</sup>

“Having earned greater legitimacy with the privatisation of the US war in Iraq, private military and security companies have expanded their roles in various areas.”

Various quarters have called for updating the UN convention and tightening the international regulatory mechanism for greater transparency and accountability. Human rights and civil society groups have pointed to multiple excesses and abuses by private military

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<sup>2</sup> Historic Archives, UN Office of Legal Affairs, “Procedural history of International Convention against the Recruitment, Use, Financing and Training of Mercenaries”, n.d., [https://legal.un.org/avl/pdf/ha/icruftm/icruftm\\_ph\\_e.pdf](https://legal.un.org/avl/pdf/ha/icruftm/icruftm_ph_e.pdf).

<sup>3</sup> See Jamie Williamson’s article in an earlier issue of this series of *Insights* titled “Marking the 10th Anniversary of the International Code of Conduct for Providers of Private Security: Lessons Learnt and the Road Ahead”. (*Insights* No. 260, 25 May 2021, <https://mci.nus.edu.sg/publication/insight-260/>).

companies confident of hopscotching through the loopholes in the existing national and international legal structures. Similarly, investigative journalists have exposed under-table dealings involving private contractors and state elites looking for deniable means of engaging in violence. There is an in-principal agreement within the international community that the mixing of war and profit is detrimental to global peace; it can erode states' monopoly over the legitimate use of force.

Yet, there is no consensus on the shape or form of a better international regulatory system. Why regulate, who should be regulated, where and how should these regulations apply, and what exactly should be regulated are questions that remain up for debate. In this article, I argue that the history of commercial arms trade regulations is an ideal place to start thinking about these questions. Compared to the still growing literature on the trade in soldiers, the arms trade has been studied, discussed and debated from various perspectives across the past century. Many of the concerns they raise about the private market in the means of violence closely resemble emerging debates on regulating the private military and security industry. The pitfalls and successes in the various regulatory approaches involving the commercial arms trade offer a critical resource for charting a more responsive system for managing the global flow of private militaries.

## Why: Merchants of Death and Beyond

Any investigation into the commercial arms trade in the 20th century must begin with Engelbrecht and Hanighen's *Merchants of Death*.<sup>4</sup> The iconic text published in 1934 exposes the growing underbelly of the

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<sup>4</sup> H C Engelbrecht and Frank C Hanighen, *Merchants of Death* (New York: Dodd, Mead, 1934).

commercial arms trade, enabled by European states looking to reduce their arms surpluses at the end of the First World War. Using vivid examples of shady arms traders such as Sir Basil Zaharoff,<sup>5</sup> the text highlights how these merchants of death used propaganda, bribes and salesmanship to peddle war. Arms dealers pitted one state against another and exaggerated the threat one presented to the other. With maximisation of wealth as their only guiding principle, they moved from one state to another and in each somehow managed to get the ears of the ruling elites.

“[At the end of the First World War] arms dealers pitted one state against another and exaggerated the threat one presented to the other.”

There are strong parallels between Engelbrecht and Hanighen’s portrayal of commercial arms merchants and contemporary dealers in surplus soldiers left behind by post–Cold War military downsizing. The archetype he sketches with Sir Basil Zaharoff has found a second life in the controversial heads of private military companies, such as Erik Prince. Most importantly, *Merchants of Death* makes a robust case for why the interests of private traders in violence were inherently antithetical to the aspirations of the international system. Through collective bodies such as the United Nations or the League of Nations earlier, states hoped to minimise war and concentrate the use of the tools of violence

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<sup>5</sup> Also see: Lewinsohn, Richard. *The Man Behind the Scenes: The Career of Sir Basil Zaharoff: The Mystery Man of Europe* (London: Victor Gollanez, 1929).

in state hands. Private dealers, however, wanted to disperse the use of violence and promote perpetual war to keep their businesses alive.

“In the US Senate, the Nye Committee wondered whether the country had been dragged into the First World War by the financial and commercial interests of the sprawling military-industrial complex.”

While the merits of Engelbrecht and Hanighen’s argument can now be debated, at its time, their critique resonated with a range of international actors. In the United States, it inspired the Nye Committee to seriously ask whether the country had been dragged into the First World War by the financial and commercial interests of the sprawling military-industrial complex.<sup>6</sup> Republican Senator Gerald P Nye, in his opening speech at the committee’s hearing, declared, “When the Senate investigation is over, we shall see that war and preparation for war is not a matter of national honor and national defense, but a matter of profit for the few.”<sup>7</sup>

Beyond the United States, the argument — that the increased private trade in arms leads to more war — even moved the League of

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<sup>6</sup> The final report of the Nye Committee is available on the website of Prof Vincent Ferraro, Mount Holyoke College, at <https://www.mtholyoke.edu/acad/intrel/nye.htm>. Transcripts of the full hearings before the Special Committee Investigating the Munitions Industry held during the US Senate’s 73rd (1933–1935) and 74th Congresses (1935–1937) are available at the various links provided by the Hathi Trust Digital Library at <https://catalog.hathitrust.org/Record/000964105>.

<sup>7</sup> US Senate, “Merchants of Death”, 4 September 1934, <https://www.senate.gov/about/powers-procedures/investigations/merchants-of-death.htm>.



Nations at the Disarmament Conference of 1933 to consider stricter regulation or even prohibition of the commercial arms trade.<sup>8</sup> Echoing Engelbrecht and Hanighen, the League's pro-regulation camp argued that the ease of market access to weapons lowered the barriers to war-making. Moreover, in contrast to the ideal of diplomatic openness, the hard-to-trace commercial means of violence tempted states to covertly fuel war while denying responsibility at international forums.

**“Regulations do not decrease the volume of [the arms] trade; they simply shift its locus.”**

Ultimately, neither the Nye Committee nor the League of Nations managed to pass any ambitious private arms trade regulation. Their limited success urges us to think more broadly about the limitations of the regulatory approach. As opponents convincingly argued during the Nye Committee hearings, prohibiting arms exports from US soil or even increasing the transaction costs could push the entire industry offshore and cause large-scale unemployment. Regulations do not decrease the volume of trade; they simply shift its locus. At the meetings of the League, arms-importing countries in the developing world raised further criticism. Without an open-for-all international market for arms, they argued, the importing states would be beholden to the will of more powerful weapons-producing states. They feared being left defenceless in the event of armed conflict if producing

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<sup>8</sup> See UN Archives, “Research Guides: League of Nations — Disarmament”, <https://libraryresources.unog.ch/londisarmament/world-disarmament-conference>. Also see CQ Researcher, “The Disarmament Conference, 1933”, <https://library.cqpress.com/cqresearcher/document.php?id=cqresrrc1933100900>.

states withheld exports to them with a view to maintaining their neutrality. As we have since seen in places like Iran, limiting access leads not to demilitarisation but to developing countries being tempted to invest in an indigenous arms industry.

## What: The Problem with Dual-use Technologies

One of the major stumbling blocks on the road to more effective regulation is the inability to distinguish between military and civilian goods in some cases. While the Wassenaar Arrangement allows signatory states to maintain a list of regulated dual-use technologies,<sup>9</sup> yet great debate remains on the usage of various goods. Both during the Nye Committee and in arms regulation debates today we repeatedly hear questions seeking to determine which side of the military–civilian divide particular goods might fall. Should governments prohibit the trade in sporting rifles that could be illegally modified into assault weapons? What about the export of aeronautical parts usable in both commercial aircraft and bombers? Many chemicals essential for manufacturing everyday goods, such as nitrogen and fibreglass threads, are also essential ingredients in making military goods, so should they be restricted as well?<sup>10</sup> Furthermore, the anti-regulation camp argued that far from being a secretive cabal of “merchants of deaths”, arms dealers were providing a

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<sup>9</sup> See details on the website of the Wassenaar Arrangement at <https://www.wassenaar.org/app/uploads/2020/12/Public-Docs-Vol-II-2020-List-of-DU-Goods-and-Technologies-and-Munitions-List-Dec-20-3.pdf>

<sup>10</sup> Priya Satia makes a convincing argument about how the private arms industry was part and parcel of the larger industrial revolution rather than a discrete ostracised and questionable sector of the economy. See Priya Satia, *Empire of Guns. the Violent Making of the Industrial Revolution* (Stanford: Stanford University Press, 2019).

range of other goods and services and that companies dealing purely in war goods were few and far between.

“Not only are private security companies diversifying, but corporations known in other industries are also entering into the protection business.”

In an earlier article in this series of *Insights*, Doug Brooks makes a similar case for the contemporary private military and security industry.<sup>11</sup> Among the members of the International Stability Operations Association (ISOA), the industry’s only collective representative body, only some 15 per cent consider themselves primarily security providers.<sup>12</sup> The rest are logistics firms, transporters, event managers, construction companies, consultants, etc. As Brooks suggests, the difference between an armed plumber working in a dangerous environment and a soldier acting as a makeshift plumber in places with a short supply of labour is often imperceptible.

Not only are private security companies diversifying, but corporations known in other industries are also entering into the protection business. For example, a recent UN Working Group report

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<sup>11</sup> Doug Brooks, “The Stability Operations Industry: From War Profiteers and Mercenaries to the Military’s Indispensable Ally”, *Insights* No. 258, 27 April 2021, <https://mei.nus.edu.sg/publication/insight-258-the-stability-operations-industry-from-war-profiteers-and-mercenaries-to-the-militarys-indispensable-ally/>.

<sup>12</sup> Also see “The US Private Military Stance in the Middle East”, transcript of episode 3 in MEI’s “Boots off the Ground” podcast series, 15 June 2020, <https://mei.nus.edu.sg/event/boots-off-the-ground-security-in-transition-in-the-middle-east-and-beyond-episode-3-the-us-private-military-stance-in-the-middle-east/>.

on the privatisation of border control and immigration services suggests that commercial air carriers are developing immigration detention services.<sup>13</sup> Similarly, on the high seas, we see maritime insurance companies take a forward approach to risk reduction by working with private security companies.<sup>14</sup>

“Corporations known in other industries that are also entering the protection business often offer security services at a discount, hoping to be compensated elsewhere.”

Interestingly, these companies often offer security services at a discount, hoping to be compensated elsewhere. On this score alone, they fall outside the UN convention that defines mercenaries as those who are “promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that

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<sup>13</sup> Human Rights Council, UN General Assembly, “Impact of the Use of Private Military and Security Services In Immigration and Border Management on the Protection of the Rights of All Migrants”, 9 July 2020, <https://undocs.org/A/HRC/45/9>.

<sup>14</sup> Through ethnographic engagement with maritime insurance firms associated with Lloyds Insurance Jatin Dua makes a similar argument about the proactive approach to protecting against piracy through partnerships with private security companies. See Jatin Dua, *Captured at Sea: Piracy and Protection in the Indian Ocean* (Oakland, California: University of California Press, 2019), p. 112–120. Also see “Kidnap and Ransom Insurance”, transcript of episode 12 in MEI’s “Boots off the Ground” podcast series, 17 March 2021, <https://mei.nus.edu.sg/event/boots-off-the-ground-security-in-transition-in-the-middle-east-and-beyond-episode-12-kidnap-ransom-insurance-managing-risk-in-the-cyber-maritime-space/>.

party”.<sup>15</sup> All of this emphasises that deciding what counts as “means of violence” is far from a straightforward task, both with regard to human and inorganic goods.

## Where: Embargoes and Their Limitations

Given the difficulty in marking out a comprehensive and definitive list of “means of violence”, states across the 20th century used a piecemeal regulatory approach of imposing time- and space-specific trade embargoes. In an attempt to minimise human suffering, the international community came together at various points to collectively cut off the flow of weapons into areas plagued with war and violence.

While embargoes in some cases were able to minimise the loss of human lives, question marks over their overall effectiveness remains. The country-specific approach to restricting the arms trade always left enough loopholes for smugglers to skirt embargoes by carving out circuitous supply routes that obfuscated the identity of the end users. They would legally export arms to a regional trade-hub, repackage and reload them onto smaller vessels designed to make multiple stops en route, and then disperse them covertly at interim ports where state vigilance was low.<sup>16</sup> As long as exports were permissible to any country

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<sup>15</sup> Office of the UN High Commissioner for Human Rights, “UN International Convention against the Recruitment, Use, Financing and Training of Mercenaries”.

<sup>16</sup> One of the earliest accounts of the dispersed and hard-to-stop nature of private gun-running was by Wilbur G. Burroughs and Arnold Keppel. See their “Gun-running and the Indian North-West Frontier”, *Bulletin of the American Geographical Society* 46.6 (1914), p. 446.

in the vicinity of a country under embargo, smugglers could illegally reroute weapons into embargoed areas.<sup>17</sup>

“Not only are embargoes ineffective and difficult to impose, but they ... push arms out of the relatively open and accountable markets into the more covert and deniable illicit trade networks.”

The changing nature of warfare also raises important questions about the applicability of embargoes. Pitched battles fought between uniformed soldiers with clear ends in mind, while a dominant phenomenon in the previous century, have now become a rarity. Today, we are seeing an increasing number of extended murky conflicts entangling both state and non-state actors. Instead of conflict zones, we see complex environments where peace cannot be set apart from war. Within such a milieu, deciding on the when and where of embargoes becomes a complicated subjective question.

One could even go a step further to suggest that not only are embargoes ineffective and difficult to impose, but they can also end up doing more harm than good. They push arms out of the relatively open and accountable markets into the more covert and deniable illicit trade networks. These illegal channels can neither be taxed nor are they easy to penalise. Moreover, embargoes create dangerous bottlenecks for forces legally operating in conflict zones. The checks and balances considerably slow down legal supplies and put the armed forces of a legitimate state at

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<sup>17</sup> Jeremy C F Lin offers a detailed set of infographics highlighting the limited impact of embargoes at [http://jeremycflin.github.io/do\\_arms\\_embargoes\\_work/](http://jeremycflin.github.io/do_arms_embargoes_work/).

a significant disadvantage vis-à-vis opposition troops and militias that are open to purchasing from the more accessible grey markets.<sup>18</sup>

Despite these problems, embargoes continue to be the go-to strategy for the international community. Interestingly, this strategy has even helped flag excesses by private military companies. One is here reminded of the downfall of Executive Outcomes (EO), the first modern private military company. Formed out of an apartheid-era South African army battalion and retired British commandos, EO, which later was recast as Sandline International, caught global attention for its involvement in a coup plot in Equatorial Guinea. Even though the actual charge of planning a coup could not be proven, the soldiers involved were charged with violating Zimbabwe's firearms import restrictions as they rerouted their supply to avoid UN embargoes.<sup>19</sup>

## Who: Accountability for Deniable Means of Violence

When the dust from the global uproar against EO/Sandline settled, only the already vulnerable boots on the ground faced severe repercussions. The 14 soldiers on the frontlines were convicted and subjected to 34 years in prison. The financier, Margaret Thatcher's son, Mark Thatcher, meanwhile got away with only paying a fine. Despite a clear paper trail

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<sup>18</sup> N. Marsh, "Two sides of the same coin? The legal and illegal trade in small arms", *The Brown Journal of World Affairs*, 9(1) (2002), p. 217–228.

<sup>19</sup> Reuters, "Factbox: Who is who in Equatorial Guinea coup plot", 8 July 2002, <https://www.reuters.com/article/us-equatorial-guinea-plot-names/factbox-who-is-who-in-equatorial-guinea-coup-plot-idUSHAR76273020080707>.

coming to light, Thatcher pleaded ignorance and claimed he had only supported the security company's legal activities.<sup>20</sup>

“Plausible deniability, one could argue, is structurally built into the market for private violence and is one of its main selling points.”

In its limited accountability, the Sandline International trials were by no means exceptional. In recent news, we saw the Russians take a similar approach of shielding themselves and their involvement in Syria by prosecuting frontline soldiers from the Wagner group as lone-wolf mercenaries. Fontanka, a Russian investigative news agency, exposed through pictures and personnel profiles the close ties between the Kremlin and Wagner group, led by several known Russian intelligence officers.<sup>21</sup> Yet, the covert links were submerged enough to allow Putin to deny any connection after the confrontation with US soldiers during the battle of Khasham in 2018. The Kremlin could theoretically even put these mercenaries on trial and imprison them to further distance itself from these expendable means of violence upon being exposed.

Plausible deniability, one could argue, is structurally built into the market for private violence and is one of its main selling points. By exporting violence through private channels, states earn the critical

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<sup>20</sup> [Jamie Wilson](#), [David Pallister](#) and Paul Lashmar, “Thatcher and a Very African Coup”, *The Guardian*, 26 August 2004, <https://www.theguardian.com/politics/2004/aug/26/uk.southafrica1>.

<sup>21</sup> “They fought for Palmyra”, Fontanka.ru, 29 March 2016, <https://www.fontanka.ru/2016/03/28/171/>.



advantage of incurring damage on opponents without facing political repercussions for their aggression. Such marketised violence presents a serious threat to the larger global order built on the agreement that states earn recognition as a sovereign entity only if they take responsibility for violence emanating from their borders. As a workaround to this principle, private means of violence lets states have their cake and eat it too.

“During the Cold War, both the Americans and Soviets mobilised private arms suppliers as they covertly fought small wars in several regions without triggering an official world war.”

The historical sociologist Janice Thomson argues that private soldiers disappeared from the global scene during the 20th and, to some extent, 19th centuries not because individual states started seeing them as inept or morally problematic, but because they created problems for the international system built around diplomatic transparency.<sup>22</sup> Under this collective pressure, as Thomson accurately points out, the trade in private soldiers declined sharply. Yet, market exchange in weapons continued without creating any insurmountable challenge for the international order.

During the Cold War, both the Americans and Soviets mobilised private arms suppliers as they covertly fought small wars in several regions without triggering an official world war. Both used private

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<sup>22</sup> Janice E Thomson, *Mercenaries, Pirates, and Sovereigns: State-building and Extraterritorial Violence in Early Modern Europe* (Princeton, New Jersey: Princeton University Press, 1994).

networks to supply weapons to their respective proxies in particular hotspots without officially admitting their active involvement in combat. While conscientious voices within the anti-war and human rights movements continued to raise alarms, the private trade in arms continued without creating the kind of global threat opponents of market violence had forewarned.

## How: Market Mechanisms for Control

The private trade in arms continued throughout the 20th century without creating systemic challenges because its total volume was a small fraction of the total arms trade. State-to-state transfers and sale of military goods continued to take the lion's share. Being by far the most prominent players in the global arms market, states could set the terms of exchange. Buyers could turn to the private market to avoid the attached strings, but they risked being blacklisted by state suppliers. For most dealers, the possibility of being blacklisted was too big a risk.

A similar market-based mechanism of control is now being advocated for the private trade in soldiers. As a slight variation, Sean McFate argues that during the high point of military privatisation in Iraq the United States had the opportunity to set the terms of exchange through the demand side of the market. As a “super buyer” that any supplier would be foolish to upset, the United States could have set the norms for the private security industry.<sup>23</sup>

While the United States never ended up setting the standards, as one might have hoped, groups like the International Code of Conduct

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<sup>23</sup> Sean McFate and Stanley A McChrystal, *The New Rules of War: Victory in the Age of Durable Disorder* (New York: Harper Collins, 2019).

Association (ICoCA) continue to focus their efforts on market enforcement of best practices.<sup>24</sup> Through discussions with a diverse coalition of civil society groups, governments and private security suppliers, the ICoCA has laid out a set of best practices for the industry. Moreover, it monitors private security activities on the ground and issues certifications. By advocating that states and non-governmental organisations with deep pockets work only with ICoCA-certified companies, the association hopes to incentivise security suppliers to operate within the limits of the code of conduct that they have laid out.

“While there was a high technological and investment barrier for new entrants in the arms production business, a cottage industry of companies trading in excess military labour can pop up and close anywhere in the world.”

To what extent the market-centric approach to controlling the use of private soldiers would work remains to be seen. For two reasons, it is hard to imagine that it would be as successful as it was in reining in the arms trade during the 20th century. First, while there was a high technological and investment barrier for new entrants in the arms production business, a cottage industry of companies trading in excess military labour can pop up and close anywhere in the world. It is thus unlikely that the market for soldiers would consolidate in the same way.

The second, and more important, reason that we are unlikely to see the same level of state dominance in the market for violence is that,

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<sup>24</sup> See website of ICoCA, <https://icoca.ch/about/>.

unlike in the 20th century, both soldiers and arms are on the market together. One of the understated reasons illicit arms dealing never became a severe problem for the international system was that the trade in soldiers during the 20th century was minimal. Other than a few locally contained separatist militias, almost all of the users of military goods were citizen-soldiers. With states having a near-monopoly on soldiers, the trade in weapons was largely legitimate. There were no alarming fears about arms ending up in the wrong hands. However, with the rise of private military and security companies in the past few decades, arms dealers now have customers beyond sovereign states. As the private soldier industry grows, it may be able to sustain a mushrooming private arms industry without the need for state contracts.

## **A SIPRI-style Database for Starters**

The increasing private trade in both soldiers and weapons is likely to create serious challenges for the international system. There are no easy solutions to this emerging twin problem. Why regulate, what to regulate, who should be regulated, where, and how to regulate the trade in the means of violence will remain a salient topic for the years to come. This article has suggested that an excellent place to start a detailed discussion of this complicated problem is the century-long debates on the private arms trade.

While the interests of the merchants of death, or traders of war goods, might be antithetical to those of the international system, without an open-for-all global market for violence, many of the smaller and developing states will struggle to preserve their sovereignty. Well-intentioned proposals for regulation, if not applied carefully, can prove disastrous. Embargoes can further push the trade in war goods into the opaque grey market. In pursuit of restrictions, it is easy to forget that

many of the war goods have essential peacetime functions. Attempts at prosecuting can come down hard on already vulnerable soldiers on the frontlines but leave those pulling the strings from behind unscathed. Market-centric approaches to regulation can limit competition in the field and lead to the market being concentrated in the hands of a few companies, which may even become more potent than many of the nation states with whom they deal.

Given these complexities, any proposal for regulating the private military and security industry must consider the specific conditions and constraints. Compared to the market for arms, the trade in soldiers remains underexplored, and the granular information needed to make these decisions is not readily available. Following in the footsteps of organisations such as the Stockholm International Peace Research Institute, better known by its acronym, SIPRI, which meticulously records the worldwide trade in weapons,<sup>25</sup> efforts need to be made to create a consolidated, transparent and easy to access database of all the companies involved in the provision of security and military services, including their geographic spread and nature of operations. ◆

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<sup>25</sup> See website of SIPRI at <https://www.sipri.org/about>



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