Although other perspectives may emerge to challenge the *Tallinn Manual*'s legal conclusions, for scholars and others focused on cyberwar issues the *Tallinn Manual* is now the go-to resource on the law applicable to cyberwar. Because of the *Tallinn Manual*'s focus on cyber warfare and the breadth of legal issues encompassed by that topic, its drafters excluded from the project "[c]yber activities that occur below the level of a 'use of force' (as this term is understood in the *jus ad bellum*), like cyber criminality" (p. 4). At least some below-the-threshold issues, however, will be addressed by the upcoming NATO CCD COE's "Tallinn 2.0" project. Tallinn 2.0 will tackle issues including the law of state responsibility, law of the sea, and international telecommunications law, as well as explore in greater depth certain principles, such as sovereignty and the prohibition on intervention, that the *Tallinn Manual* (or Tallinn 1.0) briefly addresses.[11] The project, scheduled for completion in 2016, will provide guidance for the below-the-threshold actions and legal issues that are as important as and more frequent than the cyberwar questions covered in Tallinn 1.0. The expanded coverage of Tallinn 2.0 will be a welcome addition to the important contribution the *Tallinn Manual* has made to the debates about law and cyberwar.

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Privatizing War: Private Military and Security Companies Under Public International Law. By Lindsey Cameron and Vincent Chetail. Cambridge, New York: Cambridge University Press, 2013. Pp. xxxv, 720. Index. $150.

It is by now no surprise to learn that the use of private military and security companies (PMSCs) is a widespread phenomenon. Over the last two decades, such contractors have been deployed by governments in war zones and hot spots around the globe, and their numbers often surpass those of uniformed military personnel.[1] Nevertheless, the legal frameworks applicable to these contractors are still somewhat of a mystery. Although breathless accounts of contractors operating in law-free zones are hyperbolic, the uneven overlapping patchwork of domestic and international laws that regulate these contractors' behavior is riddled with holes and remains poorly understood.

In *Privatizing War: Private Military and Security Companies Under Public International Law*, Lindsey Cameron of the University of Geneva and Vincent Chetail of the Graduate Institute of International and Development Studies, Geneva, have done a heroic job of imposing some analytic order on this seeming legal chaos, at least with respect to public international law. Bringing great rigor, depth, and clarity to the task, the authors provide a systematic overview of the multiple bodies of public international law that govern the contractors themselves and the states and others that employ them. At more than seven hundred pages, the book is not an easy read, but it is breathtaking both in its scope and attention to detail and will surely serve as a lasting and essential resource for anyone working in the field of privatized foreign affairs.

Nevertheless, because the book is so focused on applying formal international law principles to contractors, it largely misses an opportunity to grapple with how such principles are most likely to be enforced in actual practice or to rethink how international law enforcement in general might operate in an era of privatization. The authors spend the vast bulk of this massive book parsing the international law rules to determine under what circumstances a court or tribunal might determine that a PMSC is violating international law, but they devote only scant attention to alternative modes of accountability that have a far greater chance of being effective in implementing the principles and values of international human rights and humanitarian law. Such alternative modes of accountability include mobilizing greater domestic contract law and compliance

[11] *See* NATO CCD COE, Tallinn 2.0 (undated), *at* http://www.ccdcoe.org/tallinn-20.html.

[1] COMM'N ON WARTIME CONTRACTING IN IRAQ AND AFGHANISTAN, TRANSFORMING WARTIME CONTRACTING: CONTROLLING COSTS, REDUCING RISKS—FINAL REPORT TO CONGRESS 18 (2011), *available at* http://cybercemetery.unt.edu/archive/cwc/20110929213815/http://www.wartimecontracting.gov.

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oversight, mandating changes to the internal organizational structure of PMSCs, and developing public/private governance bodies to regulate the industry. Yet, because these mechanisms are not a core part of the traditional public international law framework, they receive far too little focus or energy here. As a result, the volume is very useful in setting forth a variety of international rules that might be applied to PMSCs but far less successful in proposing creative approaches to how such norms are most likely to be enforced on the ground.

The authors have divided their book into five chapters, each of which addresses a core set of legal issues raised by the use of contractors: first, the limits that international law imposes on the right even to resort to PMSCs; second, the potential responsibility under international law of states that deploy contractors; third, the extent to which PMSCs are bound by international humanitarian law; fourth, the actual legal rules applicable to PMSCs and their personnel; and fifth, the implementation and enforcement issues arising from violations of international law by PMSCs. Each chapter carefully describes the international legal frameworks that might conceivably apply to the particular set of legal issues and then works through an analysis of each. Meticulously researched and comprehensive, the book provides a thorough, clear account of the relevant bodies of law. The authors also take pains to offer concrete examples of situations in which particular legal issues might arise. The overarching purpose of the book seems not to be to opine broadly on the relative merits and demerits of using contractors but rather to provide a useful and complete legal reference that is firmly grounded in existing legal doctrine. At the same time, the authors do not shy away from drawing legal conclusions when necessary.

Chapter 1 tackles the vexing problem of whether (and under what circumstances) international law prohibits the use of PMSCs, either by states, intergovernmental organizations, or others. The authors lay out the vast array of applicable bodies of public international law that might speak to this question: the *jus ad bellum*, the *jus in bello*, international human rights law, and the principle of good faith. The authors then proceed to assess each of these bodies of law, including each doctrine and subdoctrine as it might apply to contractors. The task, even for this chapter alone, is a daunting one, but the authors pull it off with great skill and care. Significantly, most prior efforts addressing this problem have focused primarily on the law of mercenaries, including the several conventions on this topic,[2] while paying less attention to other potentially relevant sources of international law. By casting a wider net, the authors bring a broader perspective that enables them to address the question far more comprehensively.

After surveying the legal landscape, Cameron and Chetail conclude that "there is no overarching rule, explicit or implicit, that prohibits recourse to PMSCs as a whole and in general" (p. 133). And they find no clear ban in the United Nations Charter or the *jus ad bellum* generally. As a consequence, the authors reach the provocative conclusion that not only states but the United Nations itself, as well as international humanitarian organizations, may legally use PMSCs. With respect to the United Nations, the authors reason, for example, that the Security Council has the authority to allow a state contributing to peace operations to send "properly trained" PMSCs in lieu of the state's own armed forces (p. 41). Moreover, the authors determine that the Security Council may have the authority to use PMSCs to conduct peace operations.

Cameron and Chetail's analysis should hardly be read, however, as a carte blanche for states and international organizations to hand over their operations to PMSCs without any limitation. For example, with respect to a Security Council delegation to a PMSC, the authors note that all the usual peacekeeping principles must be respected, including the requirements of host-state consent, impartiality, and use of force only in self-defense. And, of course, a PMSC-led peacekeeping operation might be seen as lacking legitimacy, making it unlikely that the Security Council would actually

[2] For a summary of the law of mercenaries, see Laura A. Dickinson, *Mercenarism and Private Military Contractors*, *in* 1 INTERNATIONAL CRIMINAL LAW: SOURCES, SUBJECTS, AND CONTENTS 355 (M. Cherif Bassiouni ed., 3d ed. 2008).

authorize such a broad delegation to PMSCs (p. 38). With regard to states, the authors emphasize that state governments may not outsource the capacity to determine whether force may be used. The authors also identify several additional limitations on the use of PMSCs, which they derive from the *jus in bello* and international human rights law, including prohibitions on the administration of prisoner-of-war and internment camps, the protection and treatment of property in occupied territories, judicial-tribunal decision making during armed conflict or occupation, the maintenance of law and order and public safety during armed conflict or occupation, and the making of agreements with other parties to the conflict.

Chapter 2 delves into the question of state responsibility for the actions of PMSCs. Here, the hyper-systematic approach of the authors shades a bit into the cumbersome. Quite naturally, they take as their starting point of analysis the International Law Commission's Articles on State Responsibility. They then parse each potentially relevant clause in almost overwhelming detail to assess how the particular provision might apply to PMSCs. This painstaking effort is laudable, but, because in most cases the concrete application of some of the clauses to PMSCs is a stretch, their extensive treatment may not be entirely warranted. For example, the authors begin their analysis with Article 4, which provides that the "conduct of any State organ shall be considered an act of that State under international law" and defines a state organ as including "any person or entity which has that status in accordance with the internal law of the State."[3] The authors devote considerable space to the question of whether a PMSC might, under that definition, be an actual organ of the state, yet they concede that "a total incorporation of a private corporate entity into state structures through statutes or laws would seem unlikely, and perhaps contradictory because of the essentially private nature of PMSCs" (p. 138). The authors also discuss, at great length, whether international law might confer on a PMSC the status of a state organ even if the state's internal law does not do so. Drawing on the International Court of Justice's *Nicaragua* case and several other international decisions,[4] the authors suggest that when a private entity has "complete dependence" on a state, it may be considered to be an actual organ of that state, even without an applicable internal law (p. 149). Thus, they argue that a PMSC might conceivably be deemed an organ of the state if it has "a continuous combat function" (p. 153), if the PMSC employees are "integrated into the state apparatus" (p. 154), or if the PMSC's activities and strategies are "wholly devised by the state that uses it" (p. 155). This conclusion, however, is likely to be quite controversial given how broad (and vague) this definition could be in actual application. Indeed, the example that Cameron and Chetail provide—contract interrogators at Abu Ghraib prison in Iraq—is a stretch even under their own standard. After all, some evidence suggests that the interrogators did not receive direction from the U.S. military but, rather, had their own supervisory structure, and, indeed, may have even supervised governmental employees.[5] The authors contend that this evidence indicates contractor integration into the state apparatus. But it could equally point to a *lack* of incorporation of the firm into the governmental structure. Such ambiguity highlights a potential problem with the standard that the authors have devised.

Somewhat more useful is the authors' analysis of Article 5 of the Articles on State Responsibility, which provides that the conduct of a person or entity that is *not* an organ of the state is nevertheless considered to be an act of state if that person

[3] Draft Articles on Responsibility of States for Internationally Wrongful Acts, Art. 4, *in* Report of the International Law Commission on the Work of Its Fifty-Third Session, 44, UN GAOR, 56th Sess. Supp. No. 10, UN Doc. A/56/10 (2001) [hereinafter ILC Draft Articles].

[4] Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), 1986 ICJ REP. 14 (June 27); Stephens v. United Mexican States (U.S. v. Mex.), 4 R. Int'l Arb. Awards 265 (1927); Trial of Josef Kramer and 44 Others, 2 UN War Crimes Comm'n 152 (Brit. Mil. Ct. 1945) (Stephens case); Public Prosecutor v. Menten, NJ 79 (Neth. S. Ct. 1981), *translated in* 75 ILR 331.

[5] ANTHONY R. JONES & GEORGE R. FAY, DEP'T OF THE ARMY, AR 15-6 INVESTIGATION OF THE ABU GHRAIB DETENTION FACILITY AND 205TH MILITARY INTELLIGENCE BRIGADE 15 (2004), *available at* http://www.dod.gov/news/Aug2004/d20040825fay.pdf.

or entity "is empowered by the law of that State to exercise elements of the governmental authority."[6] Because the draft articles and commentary provide little help in defining what the term *elements* might mean in this sentence, Cameron and Chetail look elsewhere, both to other bodies of international law and to domestic law, for illuminating principles. Drawing from the international law doctrines of sovereignty and immunity, WTO doctrine, the jurisprudence of the European Court of Human Rights, as well as French administrative law and the U.S. doctrine of inherently governmental functions,[7] the authors craft a somewhat narrow definition. Under their test, combat, detention, interrogation, and the seizure of money or other goods would clearly qualify as an act of the state. Other activities in an armed conflict would be placed along a continuum, focusing on the questions of whether the private actors have unilateral authority or the capacity to coerce others. The authors acknowledge that security contractors fall into a gray area, but they argue that whenever such contractors (or others) are directly participating in hostilities, they should be considered to be wielding governmental authority. While thoughtful, this analysis begs the fundamental question of what it is about a particular function that gives it governmental authority. Is it history and tradition? Or is it something intrinsic to particular functions? Here, a discussion of the robust debate about the state-action doctrine in U.S. law, absent from the authors' analysis, would have been helpful.

While acknowledging that the Articles on State Responsibility will likely only apply to contractors in quite limited circumstances, the authors suggest that a broader due-diligence rule—which they locate within the substantive law of neutrality, human rights law, and international humanitarian law—nevertheless constrains state behavior. Based on this concept of due diligence, the authors argue that states must enact and enforce domestic statutes and regulations that protect the rights of those within their jurisdiction, even when such rights are abused by nonstate actors. Thus, in the authors' view, states are required to ensure that PMSCs are properly trained, vetted, and supervised, and states can do so through careful contractual drafting and management. Indeed, the authors suggest that this obligation of due diligence is the basis for many of the "good practices" outlined in the 2009 Montreux Document,[8] under which a group of governments (including the United States) adopted a set of principles to guide their deployment of PMSCs in order to ensure respect for human rights and international humanitarian law.

In chapter 3, Cameron and Chetail turn from the issue of state responsibility for the actions of PMSCs to potential responsibility of the PMSCs themselves. Here the authors examine both the responsibility of the corporate entities as a whole and the responsibility of individual employees. These questions are complicated because international law has historically been focused primarily on state actors rather than private entities. With respect to PMSCs as corporations, Cameron and Chetail conclude that these entities do not generally possess international legal personality, but the authors argue that PMSCs may still be bound by other means. In the authors' view, the principle of state responsibility discussed above, in particular the obligation of states to exercise due diligence with respect to certain nonstate actors, would also bind the nonstate actors directly. Under this principle, however, only PMSCs operating under contract with states would be bound. In addition, the authors note that international humanitarian law would bind PMSCs as corporate entities directly

[6] ILC Draft Articles, *supra* note 3, Art. 5.

[7] This doctrine attempts to delineate the sorts of functions that the U.S. government may or may not outsource based on the idea that certain functions are inherently governmental and should not be delegated. *See, e.g.*, Office of Federal Procurement Policy, Policy Letter 11-01: Performance of Inherently Governmental and Critical Functions, 76 Fed. Reg. 56,227 (Sept. 12, 2011), *available at* http://www.gpo.gov/fdsys/pkg/FR-2011-09-12/pdf/2011-23165.pdf.

[8] *See* SWISS FED. DEP'T OF FOREIGN AFF. & INT'L COMM. OF THE RED CROSS, MONTREUX DOCUMENT ON PERTINENT INTERNATIONAL LEGAL OBLIGATIONS AND GOOD PRACTICES FOR STATES RELATED TO OPERATIONS OF PRIVATE MILITARY AND SECURITY COMPANIES DURING ARMED CONFLICT (2009), *available at* http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/intla/humlaw.Par.0078.File.tmp/Montreux%20Broschuere.pdf.

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in those rare cases when they are fully incorporated into state armed forces or when they meet the definition of an organized armed group. The authors also suggest that international human rights law imposes on corporations some minimum obligations to respect human rights, at the very least an obligation not to engage in genocide or crimes against humanity. The doctrine of corporate complicity might in some cases serve to bind PMSCs as corporations, and, of course, self-regulation, corporate codes of conduct, domestic legislation, and government contracts may also regulate PMSCs. Finally, the authors observe that international humanitarian law imposes obligations on individuals in many circumstances, even if they are not governmental employees.

Chapter 4, the heart of the book, analyzes the essential principles of international humanitarian law and human rights law, discusses how these principles might apply to contractors, and furnishes numerous helpful examples drawn from real-world experience. Particularly useful is the authors' treatment of the thorny question of when PMSCs should be deemed to be "directly participating in hostilities" under international humanitarian law (p. 408), triggering specific obligations with regard to the use of force. The authors correctly begin with the question of status, concluding that, for the most part, PMSCs will not have combatant status in international armed conflicts. Thus, PMSC contractors do not have the right to participate directly in hostilities and may be prosecuted for doing so (p. 420). Cameron and Chetail do suggest that many PMSC contractors will be deemed to be "civilians accompanying the armed forces" (*id.*), qualifying them for POW status under international humanitarian law, but, even then, according to the authors, such civilians can be prosecuted for directly participating in hostilities. In non-international armed conflicts, where there is no combatant status, the operative question will again be whether the PMSCs are directly participating in hostilities. In both types of conflicts, therefore, the question of whether PMSCs are directly participating in hostilities will be crucial, and this determination will affect, among other issues, whether PMSCs may be targeted for attack as well as whether they themselves are acting in violation of international law. A related question—whether PMSC contractors are "[m]embers of armed groups with a continuous combat function"—will determine whether the contractors may be targeted at all times or only while they are directly participating in hostilities (p. 433). It is worth noting that the book does not address what would happen if the contractors were deemed to be "unlawful combatants" because the authors emphatically reject the notion that such a status exists in international humanitarian law (p. 426).

To determine whether PMSCs are in fact directly participating in hostilities, the authors identify numerous situations in which PMSCs operate, and they analyze those situations in a sensitive, careful way, using the definitional criteria articulated by the International Committee of the Red Cross (ICRC), which require a specific act, a causal link between the act and harm, and a "belligerent nexus."[9] Some of the most difficult situations to analyze arise when contractors are defensively guarding a site that might be deemed a legitimate military objective under international law. Significantly, Cameron and Chetail reject the notion that defensive operations can never be deemed direct participation in hostilities (p. 440). Rather, they argue that merely defending such sites could nevertheless constitute direct participation in hostilities—whether or not the contractors are armed—because the contractors are working to prevent the opposing force from taking a legitimate objective. Of course, as the authors acknowledge, it is often difficult to determine what counts as a legitimate military objective, and the answer may depend on the precise nature and purpose of the site. In addition, the authors distinguish between defending a site against criminal gangs, which would not constitute participation in hostilities, and guarding against attacks by opposing parties in a conflict, which would. And the

[9] INT'L COMM. OF THE RED CROSS, INTERPRETIVE GUIDANCE ON THE NOTION OF DIRECT PARTICIPATION IN HOSTILITIES UNDER INTERNATIONAL HUMANITARIAN LAW 996, para. V(3) (Nils Melzer ed., 2009), *available at* http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p0990/$File/ICRC_002_0990.pdf.

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authors conclude that protective security of civilians, as opposed to military personnel, will not typically qualify as directly participating in hostilities (*id.*). Despite these qualifiers, some critics might still object to the authors' rather broad definition of direct participation.

Cameron and Chetail also dissect many other examples of potential contractor behavior, carefully delineating direct participation from nonparticipation. They conclude that capturing detainees in an international armed conflict is likely to be deemed direct participation in hostilities, though the case is less clear if it is a non-international conflict. In contrast, the supervision of detainees *after* they have been captured may not be sufficient to constitute direct participation, although, as with the alleged contractor abuses at Abu Ghraib, particular acts may be illegal or, indeed, war crimes even if they do not amount to direct participation in hostilities. Helping to clear mines is likely to be direct participation if the contractors are assisting military operations but not if they are working for humanitarian purposes. Working to cause electronic interference with an adversary's computer networks is probably too attenuated to constitute direct participation. Because a causal link must exist between the act in question and actual harm, the authors suggest that neither logistics nor training functions will amount to direct participation in hostilities unless the "'training' involves leaving the classroom and charging into battle" (p. 447). For similar reasons, they conclude that the *production* of weapons does not qualify, but the *operation* of weapons might: for example, if contractors operate drones and program them for specific attacks. Similarly, contract ammunitions drivers carrying weapons to a *storage depot* would not be directly participating in hostilities, but such drivers would be directly participating when transporting the weapons to the *battlefront*. Assassinations of civilians would not qualify as direct participation, though here again the acts may still be illegal. Finally, the authors assess and acknowledge the complexity of the requirement of a belligerent nexus, but, true to their overall approach, they promote a fairly broad definition of participation. For example, they argue that intelligence gathering, even if performed remotely by drones, could be direct participation in hostilities if the intelligence is obtained to support a specific military operation.

As noted above, the authors generally define participation quite expansively. And they justify their approach by arguing that weakening such limitations on contractor participation would threaten the very foundation of international humanitarian law, which depends on clear distinctions between civilians and combatants. While some commentators will surely disagree with the authors' conclusions, their careful analysis will be useful to anyone seeking to interpret this important and challenging area of the law.

The authors provide an equally rich discussion of the rules regarding PMSCs' use of force in self-defense, examining both the international humanitarian law and human-rights-law principles relevant in this area and suggesting how the two bodies of law intersect. As with their analysis of what counts as direct participation in hostilities, this segment of the book is sure to provoke debate because the authors take a fairly hard line on what sorts of defensive acts PMSCs may perform. Cameron and Chetail acknowledge that, while "principled reasons" support both a broad and a narrow view of self-defense, the narrow view is "the only view commensurate with [international humanitarian law (IHL)]" (p. 474). A broader view that would give PMSCs wide latitude to protect civilians during armed conflict might seem humane, but, ultimately as the authors reason, it "disrupts the structure of IHL" (p. 475). The authors emphasize that the concern is that combatants "would be more likely to attack civilians directly if they believe that those civilians will try to defend against attacks" (*id.*). Regardless of one's position on the issue, the authors' careful parsing of the standard, along with a detailed analysis of multiple specific scenarios, will be quite useful to scholars and practitioners alike. The chapter also offers an extensive and helpful look at the international legal rules applicable to PMSCs in law enforcement roles as well as to civilians in armed conflict generally. Finally, although this chapter is extraordinarily comprehensive, it is worth noting that the authors omit any meaningful discussion of human trafficking or sexual assault, two areas where,

unfortunately, allegations of contractor misconduct have surfaced. These problems have generated a fair amount of regulatory interest in recent years[10] and could have benefited from further treatment here.

In the last chapter, the authors finally turn to what some might think is the key question regarding the application of international law to PMSCs: how, if at all, such rules will ever be enforced. Here, Cameron and Chetail canvass a wide array of enforcement mechanisms, including actions against responsible states through international human rights treaty bodies, mechanisms of international and domestic regulation of PMSCs, criminal responsibility (both corporate and individual), civil liability, and self-regulation. In general, the authors are careful, cautious, and complete, though, in the wake of the U.S. Supreme Court's decision last term in *Kiobel v. Royal Dutch Petroleum Co.*,[11] they paint what is probably too rosy a picture of the viability of Alien Tort Statute[12] claims against corporations. Their assessment of the right to reparations under international humanitarian law, which they conclude does exist despite a complete lack of a viable remedy, is also a bit of a stretch.

To their credit, the authors are hardly naïve about the obstacles encountered when attempting to implement and enforce the complex body of law that they have elucidated in the previous chapters. But by saving these issues to the end, the discussion of available enforcement mechanisms seems like an afterthought, whereas for many outside the rarified world of international law, it is the principal consideration to be addressed. As such, the book as a whole, though immensely valuable, has a formalistic quality: it parses in exquisite detail what international law does and does not require without adequately grappling with whether any suitable remedies are actually available.

This shortcoming is even more problematic because privatization actually opens up a very important new (and potentially promising) field of inquiry regarding the enforcement of international law, which would have benefited from further treatment here. Certainly, privatization erodes some existing mechanisms of enforcement and implementation through its increased delegation to nonstate actors. However, this very act of delegation creates additional ways of potentially effectuating international law principles that are not only significant with regard to PMSCs but that may be useful in other areas of international law enforcement as well. And while the authors mention such mechanisms in passing,[13] the balance of the book is skewed, focusing far more on rights than on remedies.

Yet, to the extent that we care about ensuring that contractors respect core public values such as human rights, we should look toward new modes of accountability and constraint to protect those values.[14] And although delineating the scope of rights under existing international law instruments (as the authors do throughout) is valuable and important, equally valuable is the development of alternative accountability mechanisms for controlling private contractors and implementing core public law values in the international sphere. How can we make private security forces accountable, and to whom? And if complete accountability is not possible, might we at least be able to harness mechanisms of constraint that will help deter private contractors from committing abuses? How can people whom contractors harm seek either

[10] For an account of such problems, see Sarah Stillman, *The Invisible Army*, NEW YORKER, June 6, 2011, at 56, *available at* http://www.newyorker.com/magazine/2011/06/06/the-invisible-army. *See also, e.g.*, Strengthening Protections Against Trafficking in Persons in Federal Contracts, Exec. Order No. 13,627, 77 Fed. Reg. 60,029 (Sept. 25, 2012), *available at* http://www.whitehouse.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe (addressing trafficking issues related to contractors).

[11] 133 S.Ct. 1659 (2013).

[12] 28 U.S.C. §1350.

[13] For example, Cameron and Chetail discuss government contracts in the context of defining the government's due-diligence obligations rather than examining the efficacy of the contracts and contractual oversight mechanisms. And their analysis of codes of conduct is quite cursory. Indeed, they analyze codes of conduct within the framework of industry self-regulation, even though, as discussed *infra*, such codes may entail hybrid public/private models of regulation.

[14] For discussion of some alternative models, see LAURA A. DICKINSON: OUTSOURCING WAR AND PEACE: PRESERVING PUBLIC VALUES IN A WORLD OF PRIVATIZED FOREIGN AFFAIRS (2011).

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redress or at least an opportunity for criticism or feedback? How can the government agencies for which contractors work successfully supervise, monitor, and control their actions, while punishing them for misconduct? How can the organizational structure and culture of private military firms be reformed to try to ensure greater respect for public values? How can the media, public-interest monitors, nongovernmental organizations (NGOs), and foreign citizens affected by contractors find out what contractors are doing and make such activities known to audiences who would care? And are certain types of privatization more likely to result in abuse and fraud than others?

To address such questions, we must think in broader terms about accountability as not only after-the-fact decisions of formal tribunals, such as courts, but as managerial oversight, whereby we structure the processes of contracting to try to build greater public participation and accountability into the day-to-day operation of PMSCs. In addition, we must look not only at traditional legal mechanisms of accountability, such as treaties and other bodies of international law, but also at alternative mechanisms, such as reforming the terms of the contracts themselves, building into the contracting process greater opportunities for public participation regarding privatization activities, seeking ways to reform the organizational structure and culture of private firms to impose internal constraints, and building a variety of governmental and nongovernmental accreditation, oversight, and enforcement regimes.

One example, noted all too briefly in the book, is the recent partnership of the human rights community, industry, and government, which has produced a voluntary International Code of Conduct for Private Security Service Providers,[15] along with a proposed governance and oversight mechanism to enforce the Code.[16] Both the Code and oversight mechanism are the product of many years of dedicated work by what may seem to be an unlikely alliance of actors in a strikingly open and transparent process.[17] Significantly, this arrangement is a true public/private partnership: it is not just industry self-regulation. Both the process for drafting the Code and the structure of enforcement ensure that governments and human rights NGOs remain at the table, which will presumably help to ensure that the Code is implemented with the serious compliance energy originally envisioned. The resulting mechanism has yet to take effect, and we will need to wait to see how this Code is ultimately implemented and enforced. Nevertheless, it holds a great deal of promise both as an accountability mechanism for PMSC contractors and as a model for future public/private accountability regimes. Had the book been more focused on how the elaborate legal framework that it sets out is most likely to be enforced, this Code would have received far more attention. Likewise, other significant alternative approaches, such as reforming the contracts themselves, are discussed, but only briefly or in passing. Yet, drafting contracts to incorporate international legal principles explicitly may be a far less ambiguous way of applying such principles to PMSCs than the authors' long and complex analysis of how courts and tribunals might do so.

Regardless of whether these particular alternative accountability frameworks are successful, however, the key issue is that books such as this one that purport to address the liability of PMSCs for violation of international law must do more than delineate the framework of liability, as valuable as that job is. They must go further and grapple with

[15] INTERNATIONAL CODE OF CONDUCT FOR PRIVATE SECURITY SERVICE PROVIDERS (2010), *available at* http://www.icoc-psp.org/uploads/INTERNATIONAL_CODE_OF_CONDUCT_Final_without_Company_Names.pdf. For an evaluation of the Code and its enforcement mechanism, see Laura A. Dickinson, *Regulating the Privatized Security Industry: The Promise of Public/Private Governance*, 63 EMORY L.J. 417 (2013).

[16] INTERNATIONAL CODE OF CONDUCT FOR PRIVATE SECURITY SERVICE PROVIDERS' ASS'N, ARTICLES OF ASSOCIATION (2013), *at* http://www.icoc-psp.org/uploads/ICoC_Articles_of_Association.pdf.

[17] *See* SWISS FED. DEP'T OF FOREIGN AFFAIRS, FACT SHEET: INTERNATIONAL CODE OF CONDUCT FOR PRIVATE SECURITY SERVICE PROVIDERS 2 (2011), *at* http://www.icoc-psp.org/uploads/Fact_Sheet_ICoC_November_2011.pdf (noting that the International Code of Conduct process involved private security companies, industry associations, governmental representatives, and various humanitarian and nongovernmental organizations).

the crucial question of enforcement, and they must likewise discuss, with equal comprehensiveness and precision, the strengths and weaknesses of the whole panoply of enforcement mechanisms that might be available. As such, Cameron and Chetail are to be lauded for their extraordinary efforts to clarify the international law framework to be applied to PMSCs, even though one might wish they had gone further to consider creative and innovative new ways that international law enforcement is evolving in the twenty-first century.

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Interdisciplinary Perspectives on International Law and International Relations: The State of the Art. Edited by Jeffrey L. Dunoff and Mark A. Pollack. Cambridge, New York: Cambridge University Press, 2013. Pp. xv, 680. Index. $125, cloth; $44.99, paper.

Two distinct disciplines—international relations (IR) and international law (IL)—have been working in parallel to show how international legal institutions affect human behavior. In the past twenty-five years, varied efforts have brought IR and IL together through collaborations in scholarship, the trading of ideas, and the formation of new journals open to crossing the divide. Yet even when studying many of the same phenomena, the two fields often seem unaware of insights on the other side of the disciplinary divide.[1] That synopsis is the main message from this magisterial new book, *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*, edited by Jeffrey Dunoff, of Temple University's Beasley School of Law, and Mark Pollack, of Temple University's College of Liberal Arts. It is a fresh and welcome look about how the two disciplines might cooperate better.

That "divide" between these disciplines (p. 11), explain Dunoff and Pollack, is rooted in three factors. The first is theory. While there have been forays into each other's side, both sides of the divide remain heavily influenced by caricatures of the other. Many scholars of IL still seem to believe that IR is all about realism, even though IR moved far beyond that theory with many different perspectives years ago. IR has become an increasingly problem-driven discipline, no longer centrally focused on theoretical wars against a simplistic "realist" view that state power determines all matters of international affairs. Gross ignorance is even more widespread in IR, where many scholars wrongly see IL as dominated by doctrinal disputes and not animated by any theory of how law works—even though the study of IL is much richer than doctrine and has greatly transformed to embrace a rich array of theories about the influence of law. Both fields have evolved in ways that bring considerable overlap, but neither side seems adequately aware of the synergies between IR and IL.

The second potentially more serious source of division is epistemological. The two fields differ over the origins, limits, and validity of knowledge. Mainstream political science has moved to positivist methods focused on causality and external validity. Law, by contrast, is both more diverse in approach and less self-aware. Positivism is present and growing but is far from the mainstream, and many in the IL community still resist its application to legal scholarship. But the reality is that the "scientific" turn in the social sciences does not map neatly onto the divide. There are plenty of political scientists and lawyers in both camps. The theme of *Interdisciplinary Perspectives* is heavily oriented around how modern scientific methods can identify and test theories about institutional design, judicial behavior, and other such topics in both fields.

Third are competing conceptions of law. IR often assumes that the central role of law is instrumental: it is a contract that gets things done and that works by altering material incentives. Actors behave purposively to pursue their interests, and the role of law is to change the costs and benefits of different actions. Sanctions and other forms of

[1] For similar perspectives, see Kenneth W. Abbott, *Modern International Relations Theory: A Prospectus for International Lawyers*, 14 YALE J. INT'L L. 335 (1989); Emilie M. Hafner-Burton, David G. Victor & Yonatan Lupu, *Political Science Research on International Law: The State of the Field*, 106 AJIL 47 (2012).