

INTRODUCTION

The Stockholm International Peace Research Institute reports that the 2008 U.S. defense budget, at \$607 billion, is greater than the spending of the next fourteen countries combined and represents 41 percent of the world's total defense spending of \$1.46 trillion.¹ There is, however, broad concern that the American people are not receiving a level of security commensurate with this huge investment of their resources. With such concerns in mind, would-be reformers have undertaken major initiatives to transform the institutions responsible for America's national security. These will be analyzed in detail in Chapter 4.

The most important of these is the Project on National Security Reform (PNSR), a congressionally funded policy think tank set up in 2006, which issued its first report in late 2008. This hefty document (702 pages) asserts that:

the national security of the United States of America is fundamentally at risk . . . The United States therefore needs a bold, but carefully crafted plan of comprehensive reform to institute a national security system, that can manage and overcome the challenges of our time. We propose such a bold reform in this report; if implemented, it would constitute the most far-reaching governmental design innovation in national security since the passage of the National Security Act of 1947.²

Building on previous studies, reports, and the lessons of earlier reform efforts, the purpose of PNSR was not only to make recommendations but to bring together experts who could delineate and then implement, at the direction of

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the president, the necessary steps to reform the national security system. PNSR's executive director, James R. Locher III, also played an important role in the passage of the last successful defense reform legislation, the Goldwater-Nichols Defense Reorganization Act of 1986. Several PNSR members presently serve at high levels in the Obama administration's Department of Defense, Department of State, and National Security Council. Like all major reform initiatives between 1986 and today, the project's work focuses on the problem of increasing the effectiveness of the U.S. national security sector, which encompasses a daunting number of departments and agencies at all levels of government. Unfortunately, these kinds of reform efforts, culminating in the PNSR, have not received much attention beyond Washington, DC, and within a relatively small universe of policy makers and defense intellectuals.

Meanwhile, what does receive a great deal of attention in the popular media, in advocacy reporting, and in the scholarly literature is the contracting out to private firms of national security roles and missions, particularly in Iraq and Afghanistan. The importance of contracting services in wartime—the for-profit side of national security—is made evident by the fact that there were more contractors than uniformed personnel in the Iraq and Afghanistan theaters in mid-2009, at a ratio of 1.1 to 1.³ Due to the public exposure of rampant graft, corruption, and apparently unjustifiable violence involving some private contractors, Congress stepped up its oversight, illustrated by the creation in late 2003 of the Special Inspector General for Iraq Reconstruction (SIGIR), and in 2008 of the Special Inspector General for Afghanistan Reconstruction (SIGAR), both of which produce a great variety of audits, studies, and reports.⁴ The Congressional Research Service (CRS) and Government Accountability Office (GAO) also have published one study after another, while Congress itself has held many hearings on the topic of “contracting out” and at least two in-house commissions have been created that conduct studies and make recommendations for legislation. In August 2007, the secretary of the army created the Commission on Army Expeditionary Contracting (known after its chairman, Jacques Gansler, as the Gansler Commission), which made its report on October 31, 2007, and the Commission on Wartime Contracting, which submitted its interim report in June 2009 and has a final report due in July 2011.⁵

In testimony to the Subcommittee on Readiness of the House Armed Services Committee, in early March 2008, David M. Walker, comptroller general of the United States, conveyed a sense of the growth, centrality, and scope

of military contracting and highlighted many of the controversial issues surrounding their employment:

In fiscal year 2007, the federal government spent about \$254 billion on *contractor services*, an amount that has more than doubled over the past decade. The Department of Defense's (DOD) obligations on *service contractors*, expressed in constant fiscal year 2006 dollars, rose from \$85.1 billion in fiscal year 1996 to more than \$151 billion in fiscal year 2006, a 78% increase. With this growth in spending, DOD has become increasingly reliant on contractors both overseas and in the United States. . . . The U.S. military has long used contractors to provide supplies and services to deployed forces, but the scale of contractor support DOD relies on in deployed locations today has increased considerably. DOD has recently estimated the number of contractors in Iraq and Afghanistan to be about 196,000. Further, DOD currently has the equivalent of *three brigades of contractors providing security services* in Iraq, as well as another brigade equivalent supporting these contractors—a total of about 12,000 personnel. Put another way, there are more *private security contractors* in Iraq today than the total number of contractors (about 9,200) that were deployed to support military operations in the 1991 Gulf War.⁶ (Emphasis added.)

The lens of civil–military relations focuses our attention on issues of control and direction, specifically on who makes the fundamental decisions concerning the use of armed force. This volume expands and adapts that focus to include the private security contractors (PSCs) that have taken on many of the roles and missions that were traditionally the responsibility of the uniformed military. For more than thirty years now, the U.S. Department of Defense has been directed to contract out a remarkable amount of its functions rather than hire government employees. The reasons for this, and the legal bases, will be dealt with in Chapter 5 of this volume. Nowadays in many countries around the world, especially in those that receive abundant U.S. security assistance funding, the security landscape is populated by a wide variety of contractors providing technical assistance. Some are highly qualified and focused on the task at hand, but others are not. Too often these private firms seem to have no positive impact on the host nation, and even the opposite, but either way they continue to receive impressive sums of money from the U.S. government. The Quadrennial Defense Review Report of 2006 defines the U.S. “Total Force” as consisting of an “Active Component, Reserve Component, civilians and contractors.”⁷ The Defense Science Board refers to contractors as the “fifth force

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provider in addition to the four services.⁸ The U.S. Army and U.S. Air Force have also included reference to contractors in their documents on doctrine.⁹ Put simply, contractors are viewed as an integral part of U.S. military forces.

The academic literature on private security contractors, which has been proliferating quickly in recent years, is useful as far as it goes but has not done much more than scratch the surface of what contracting means for the nation's overall security. While Deborah D. Avant, Simon Chesterman and Chia Lehnhardt, P. W. Singer, Benedict Sheehy, and Allison Stanger in particular have produced sophisticated works that contribute valuable descriptive data and analysis,¹⁰ no book or article published so far has situated the PSC within U.S. civil-military relations, which is necessary to develop a real understanding of both. After all, these security contractors replace the military in a variety of roles and missions, including some kinds of combat; they receive the vast majority of their considerable funding from the Department of Defense; and they affect the country's ability to project force. All of this has implications not only for civil-military relations but also for decisions on the use of force.

While the problems with security contractors that are currently making news in Iraq and elsewhere arose during the administration of President George W. Bush (2001-2009), the practice goes far back, in Democratic as well as Republican administrations.¹¹ The solutions that have been suggested during the current Obama administration encounter very serious structural obstacles, while reforms to the national security system as a whole that have been proposed since the Goldwater-Nichols Act became law in 1986 have not been implemented. The challenge of reform is not the political orientation of those in power but rather the entire structure of U.S. national security decision making and implementation. A better understanding of the implications of contracting out military missions thus has to begin with U.S. civil-military relations and the legal and political implications of security contracting.

As Chapter 3 will argue, civilian control of the armed forces is not now, nor has it been since the earliest days of the republic, a salient concern in the United States.¹² The institutions of democracy are robust, and the armed forces are under close control in the United States, facts that are well known among civilian policy makers and at every level of the armed forces. Rather, the focus of all of the U.S. security and defense reform initiatives that come under analysis in Chapter 4 is on the effective use of the armed forces and intelligence agencies for national security and defense. This book, then, is more in line with literature on the use of force by the United States, but even those

studies, unfortunately, do not deal extensively with the infrastructure and resources requirements for the armed forces and intelligence community to be able to accomplish whatever missions the democratically elected civilian leadership assigns them.¹³

The goal of this book is to propose a framework grounded in civil–military relations that can be used to analyze the main issues surrounding current U.S. force effectiveness and the contracting out of security, focusing mainly on the private security contractors. A meaningful evaluation of the national security sector requires a three-dimensional approach that encompasses reliable democratic civilian *control*, *effectiveness* in implementing roles and missions, and *efficiency* in the use of resources. These elements, taken together, capture most of what is important for the establishment of real national security reform in most countries most of the time. This three-part analytical framework also is both sufficiently flexible and reliably rigorous to be useful for decision makers. It will allow us to understand, and thereby evaluate, current efforts to reform and improve the effectiveness of those institutions involved in U.S. national security and will guide us on what is relevant to include for analysis and what is not. A critical aspect of this analysis is to develop an accurate picture of how the main components of the use of force, involving civilian decision makers and the various branches of the military, fit together.

The scope of this book relies on certain fundamental assumptions: (1) It must be amenable to comparative analysis because democracies are increasingly similar, and we must be able to compare and contrast their institutions and outcomes; (2) it must offer a contemporary viewpoint, given the changes now taking place in the security sector; (3) it must be practical, as the issues surrounding national security are vital and immediately relevant; (4) it must include a cogent discussion of government contractors because they are not only a fact of life but both a result and a catalyst of larger changes; (5) it must consider the political perspective because, at least in a democracy, reform or its absence is determined by political processes; (6) and, finally, it must include an institutional perspective. This discussion of civil–military relations and contractors is all about institutions, how they emerge, and how, as they develop support networks and resources, they become “sticky” and resistant to reform.

There is, interestingly, authoritative guidance for the addition of measurements of effectiveness and efficiency to the academic literature on U.S. civil–military relations, in Point 1 of the North Atlantic Treaty Organization’s

(NATO's) "Partnership Action Plan on Defence Institution Building," which states the following:

The Member states of the Euro-Atlantic Partnership Council reaffirm their conviction that effective and efficient state defense institutions under civilian and democratic control are fundamental to stability in the Euro-Atlantic area and essential for international security cooperation. They agree to establish a Partnership Action Plan to support and sustain further development of such institutions across the Euro-Atlantic area.¹⁴

The Office of Management and Budget (OMB), a key component of the executive office of the president, has found that the need to improve security effectiveness and efficiency applies as well to the United States, according to the Government Performance Results Act of 1993: "Federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance."¹⁵ Studies released eight years later by the U.S. General Accounting Office (the former title of the Government Accountability Office), in June 2001, analyzed the degree to which the DOD had achieved these goals:

DOD's progress in achieving the selected outcomes is unclear. One of the reasons for the lack of clarity is that most of the selected program outcomes DOD is striving to achieve are complex and interrelated and may require a number of years to accomplish. Another, as we reported last year, is that DOD did not provide a full assessment of its performance.¹⁶

Once we have a clear picture of the institutions of civil–military relations from the perspective of the three dimensions of control, effectiveness, and efficiency, it will then be possible to better analyze the implications of the private military contractors for U.S. security and defense. Using the framework to assess the performance of contractors on each of the three specified dimensions, it is both encouraging and gratifying to see how well it encompasses the main themes of ongoing auditing and research efforts aimed at contracting. Some adjustments have to be made, of course, to accommodate the comparison of public agencies, including the military, with private, for-profit, firms. The overall goal in this book is, then, to elaborate a framework for the analysis of civil–military relations, apply it to the U.S. armed forces, and then apply it as well to the private security contractors.

THE THEORETICAL FOUNDATION: NEW INSTITUTIONALISM

This book has both conceptual and practical goals. It is a work of sociological and political analysis, but it also provides an empirical basis from which to first define key issues in democratic civil–military relations and then implement institutional reform. The myopic focus on control found in most of the academic literature on U.S. civil–military relations makes this literature marginal to current national security reform initiatives, nor do these works typically appear in the reading lists prepared for the different U.S. military services.¹⁷

The analysis in this book will be only as good as the data in it, which are as complete and reliable as possible within a finite time period, and the conceptual framework it develops to identify what data were needed and how they should be organized and interpreted. The foremost American Weberian theorist, Reinhard Bendix, once pointed out, “You know, a little theory goes a long way.”¹⁸ This admonishes us to use just enough theory to identify key relationships that will help make sense out of political, religious, and military phenomena but not to assume that a tidy theory is enough in and of itself to end debate or obviate further study. In the course of many years’ research on civil–military relations in new democracies, the Center for Civil–Military Relations (CCMR), located at the Naval Postgraduate School in Monterey, California, has developed an analytical method that emphasizes institution building and accountability. In the newer democracies, CCMR’s faculty collaborate with officers and civilians to develop the institutions they need to reform their security forces and bring them under democratic civilian control. The present book will maintain the same conceptual approach as in CCMR’s previous books on civil–military relations and intelligence reform, which drew heavily from Peter A. Hall’s and Rosemary C. R. Taylor’s seminal review article, “Political Science and the Three New Institutionalisms.”¹⁹ Those earlier works emphasized in particular the following themes. First, institutions are understood broadly as “the formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy.”²⁰ Second, institutions originate from the goals and motivations of the actors that create them, and we live in a world replete with these creations. Third, it must constantly be borne in mind that the process of creating and implementing institutions is all about power, and institutional power relations therefore are a primary concern of both New Institutionalism and this volume’s approach to civil–military relations.

The scholars currently working in this field of New Institutionalism are engaged in comprehensive and informative debates that focus on the influence, or “functions,” that institutions exercise. Claus Offe offers a useful and thought-provoking study on the functions of institutions in a chapter he wrote, titled “Political Institutions and Social Power,” for an edited volume that includes some of the leading scholars in the field.²¹ Five of these functions, as Offe formulates them, are directly relevant to this book’s analysis and are outlined here to familiarize the reader with their terms and ideas:

- a. *The Formative Impact on Actors.* “Institutions shape actors’ motivational dispositions; goals and procedures are ‘internalized’ by actors, who adopt goals, procedures, and interpretations of the situation that are congruent with the institutional patterns. Institutions shape actors so that they (many or even most of them) take these institutions for granted and comply with their rules. Institutions have a formative, motivation-building, and preference-shaping impact upon actors.”
- b. *Congruent Preference Formation.* “By virtue of this formative effect, as well as the shaping of actors’ expectations, institutions can provide for predictability, regularity, stability, integration, discipline, and cooperation. In the absence of institutions, actors would not be able to make strategic choices, because they would lack the information about what kind of action to expect from others, which they need to know in order to pursue their own benefit.”
- c. *Economizing on Transaction Costs.* “In particular, institutions increase the efficiency of transactions as they help to economize on search, negotiation, and enforcement costs of market and nonmarket interaction. To the extent that institutions are capable of cultivating their corresponding codes of conduct and the respective ethical dispositions, a by-product of their functioning is the avoidance of the costs of conflict and conflict resolutions.”
- d. *Frictionless Self-Coordination.* “Institutions shape actions by providing opportunities and incentives to actors so that a spontaneous order . . . results.”
- e. *Continuity.* “By virtue of their formative impact upon individuals, as well as their contribution to social order, institutions can be self-perpetuating. The longer they are in place, the more robust they grow, and the more immune they become to challenges. Institutions can breed conservatism. Innovation becomes more costly, both because

those living in institutions have come to take them for granted, and because those who are endowed by them with power and privilege resist change. For both of these reasons, they set premises, constraints, and determinants for future developments and thus become ‘path dependent’ and limit change to the mode of (at best) incremental adjustment.”²²

These conceptual observations can help clarify both how U.S. civil–military relations work (or do not work) and how the PSC fit into those relations. It is the assumption of this volume that a New Institutional perspective best allows us to understand the centrality of institutions in the U.S. system of civil–military relations, the ways in which they support democratic civilian control but at the same time impede effectiveness, and the unequal relationship between the contractors and those who are supposed to control them.²³

STRUCTURE OF THE BOOK

There is a wealth of books, chapters, and articles on civil–military relations as well as on contractors, located through extensive searches and the recommendations of scholars from a number of countries, that serve as the preliminary sources of information for this book. The book also draws heavily from government reports, audits, and other documents from such agencies as the Congressional Research Service, the Government Accountability Office, the Special Inspector General for Iraq Reconstruction, the Congressional Budget Office, internal reports from the Department of State and the Defense Security Cooperation Agency, congressional testimony, and think tanks such as the Center for Strategic and International Studies and several nongovernmental organizations. In addition to these are the extensive documentation and studies from the PNSR. The challenge has been to complete this book in the midst of a flurry of government publications, ongoing congressional hearings, and commission reports on several of the topics it deals with, including the PSC.

Undoubtedly the most important source for original insights and illuminating points of view were the forty-five policy makers and officials in U.S. civil–military relations, defense reform, and contracting who agreed to be interviewed for this book, some of them several times over a ten-month period.²⁴ The interviews proved indispensable for putting the government reports into perspective so they could be more fully understood and appreciated. Finally, the work of the instructors and students in the Graduate School of Business and Public Policy at the Naval Postgraduate School proved extremely valuable for the data and analysis presented in Chapters 5 and 6. Because much of the

contracting activity is involved with various areas of jurisprudence, the research extended to articles in law review journals and interviews with lawyers in the field of contract law. The reader will discover the meaning, and significance of terms such as FAR, A-76, inherently governmental functions, CORs,²⁵ and much more, without which the current practice of government contracting and the expansion of the PSC cannot be comprehended.

Chapter 1 assesses the current literature on U.S. civil–military relations and discusses its limitations with regard to national security reform. As the chapter will make clear, this literature is flawed not only by its static emphasis on professions rather than the political dynamics involved in changing professions but also by its almost total focus on civilian control. Furthermore, the field is neither comparative nor amenable to a New Institutional analysis, a problem that will be explained in detail in the course of the chapter.

Chapter 2 elaborates on the three-part analytical framework briefly described here, comparing it to the current literature in the field of security sector reform (SSR). Several countries of Latin America provide empirical data, gathered through two recent major hemisphere-wide research initiatives, that illustrate the utility of the framework to identify and organize data for analysis. According to assessments published by the highly respected watchdog organization Freedom House, in 2009 some 119 of 193 countries were considered electoral democracies according to specific criteria.²⁶ If political parties and other institutions of democracy can be compared usefully, there is no reason to assume the same is not true of the armed forces because they and other security instruments have roughly similar roles and missions across different countries. In the new democracies of Latin America, the biggest challenge is indeed control of the armed forces. But the low level of resources committed to these countries' defense and security sectors is reflected in their armed forces' lack of effectiveness, a problem too often ignored by analysts and policy makers. The same points regarding challenges could be made about other new democracies in at least sub-Saharan Africa and Southeast Asia.

The issue of effectiveness as a necessary dimension of democratic civil–military relations will be taken up in Chapter 3. Drawing on a wide variety of sources, including official U.S. government reports, works by prominent journalists on current strategy and conflict, and interviews with policy makers, I will show that, although control is not an issue for U.S. national security, effectiveness most certainly is. The United States cannot afford its business-as-

usual attitude or the assumption that what was good enough in the past will be adequate for the challenges of the future.

The following chapter reinforces this point as it reviews previous major reform initiatives, from the landmark Goldwater-Nichols Defense Reorganization Act of 1986 up to and including the PNSR. The issue of control never surfaces in any of these reform initiatives, although the need for greater effectiveness does again and again. Nor do these efforts at reform cover private security contractors. What becomes clear is that the success or failure of reform is determined mainly by politics in a context of institutional inertia.

Chapter 5 introduces private security contractors as a key component of U.S. national security and defense and thus of U.S. civil–military relations. The first point to understand is why the issue of contractors is so contentious. The chapter then provides data on the numbers of contractors currently employed in the broader U.S. national security sector and the many reasons for their emergence and growth in recent decades. It then focuses specifically on the PSC as opposed to the larger field of defense contractors, using Iraq for a case study due to the scope of activities and resources the PSC have there and the availability of good data on them.

Chapter 6 analyzes the PSC in terms of the threefold civil–military relations framework. Much of the documentation in Chapters 5 and 6 covers the detailed mechanisms used to keep track of funding and performance and to show that the efficiency dimension is robust. The other two dimensions, however, are not. Control can be assessed in terms of what is included, or excluded, within the definition of “inherently governmental functions.” The contractors are hired to fulfill a contract, so the main focus for effectiveness must of necessity be on the contract process. That process will be analyzed in terms of our framework, and it will be demonstrated that effectiveness is problematic.

The Conclusion will update the findings on the reform initiatives, which encompass both the uniformed military and private contractors.