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Russia's Military and Security Privatization

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ABSTRACT: This article discusses the conflicting use of nonstate actors in state-sponsored actions. It also introduces a diplomatic strategy for regulating the application of violence by private military and security companies.

On the night of February 7–8, 2018, for the first time since the Vietnam War, American and Russian forces clashed directly.[1] A Russian-Syrian force of approximately 500 fighters crossed the Euphrates River near the eastern Syrian city of Deir ez-Zzor and launched an attack. The target, on the other side of the river, was a base for the Kurdish Syrian Democratic Forces and its US military advisors. During the three-hour battle that followed, the US military deployed artillery, jets, helicopters, and unmanned aerial vehicles. In the subsequent press conference, Lieutenant General Jeffrey L. Harrigian, the commander of US Air Forces Central Command, reported these US forces "release[d] multiple precision fire munitions and conduct[ed] strafing runs against the advancing aggressor force, stopping their advance and destroying multiple artillery pieces and tanks."[2] While US forces incurred no casualties, some reports suggest as many as 100–200 Russians were killed in the engagement.[3]

Adding to the significance and complexity of this event, the Russian forces were not soldiers in state uniforms. Instead, they were personnel of Wagner, a Russian private military and security company (PMSC). In recent years, 2,500 Wagner personnel have operated in Syria as Russia's unofficial "boots on the ground."[4] Reports of the company using a military base in southern Russia and relying upon state-sponsored military logistics and medical services tie the company to Russian state actors.[5] Nevertheless, officials responding to the February battle could simply distance themselves: "Russian service members did not take part in any capacity and Russian military equipment was not used."[6] Elements in the nation's media drew a further distinction: "It was a

1 Joshua Yaffa, "Putin's Shadow Army Suffers a Setback in Syria," *New Yorker*, February 16, 2018.

2 "News Transcript: Department of Defense Press Briefing by Lieutenant General Harrigian via Teleconference from Al Udeid Airbase, Qatar," US Department of Defense (DoD), February 13, 2018.

3 Yaffa, "Putin's Shadow Army"; and David Isenberg, "Putin's Pocket Army? The Rise of Russian Mercenaries in Syria," *American Conservative*, February 15, 2018.

4 John Sparks, "Revealed: Russia's 'Secret Syria Mercenaries,'" Sky News, August 10, 2016.

5 William Watkinson, "Russian Mercenaries Reportedly Hired To Fight Isis in Syria despite Kremlin's Denials," *International Business Times*, August 10, 2016; Maria Tsvetkova and Anton Zverev, "Ghost Soldiers: The Russians Secretly Dying for the Kremlin in Syria," Reuters, November 3, 2016; and Henry Meyer and Stepan Kravchenko, "Mercenaries Hurt in U.S. Syria Strikes Are Treated at Russian Defense Hospitals," Bloomberg, February 14, 2018.

6 Ellen Nakashima, Karen DeYoung, and Liz Sly, "Putin Ally Said To Be in Touch with Kremlin, Assad before His Mercenaries Attacked U.S. Troops," *Washington Post*, February 22, 2018.

Dr. Christopher R. Spearin, a professor in the Department of Defence Studies, Royal Military College of Canada/Canadian Forces College, wrote *Private Military and Security Companies and States: Force Divided* (Palgrave Macmillan).

purely commercial issue. It had nothing to do with war."[7] These Russian denials came easily even though this was the single largest loss of PMSC personnel lives since the rise of the phenomenon in the 1990s.[8]

Despite the significance of this confrontation, the official US reaction was muted too. When reporters pressed for the composition of the group US forces had confronted, Defense Secretary James Mattis pleaded ignorance: "I think the Russians would've told us. If they—as long as they knew, you know, then they probably would've told us. Right now I don't want to say what they were or were not, because I don't have that kind of information."[9] Harrigian's response to a similar query was both comparable and diversionary: "I'm going to be clear that I will not speculate on the composition of this force or whose control they were under . . . we are focused on a singular enemy: ISIS."[10] Additionally, a telephone conversation between US President Donald Trump and Russian President Vladimir Putin on February 12, 2018, did not cover the clash. Notwithstanding this obfuscation, PMSCs, which were a fixture in the US-led interventions earlier in this century, have now entered the realm of great-power confrontation.

In light of this significance, this article answers the following questions: What role do PMSCs play in Russian military endeavors? What informs this role? And what policy might inform a US response in the longer term? In answering these questions, the article identifies the presence of PMSCs in Russian military thinking. In turn, it highlights the recent Russian utilization of PMSCs as a gray-zone challenge, defined as "*competitive interactions among and within state and non-state actors that fall between the traditional war and peace duality* [that] are characterized by ambiguity about the nature of the conflict, opacity of the parties involved, or uncertainty about the relevant policy and legal frameworks."[11]

Given this challenge, the article contends the United States might robustly highlight its stance towards the PMSC industry: namely, America should place PMSCs in a normatively defensive context in which utilization is transparent.[12] The United States might promote greater international acceptance of the *Montreux Document*, which US officials have endorsed, that sets the defensive nature of PMSCs. Since the document establishes that PMSCs focus on "*armed guarding and protection of persons and objects, such as convoys, buildings and other places*; maintenance and operation of weapons systems; prisoner detention; and advice to or training of local forces and security personnel," successfully promoting it might help the United States influence the removal of such nonstate actors from Russia's gray-zone arsenal.[13]

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7 Yaffa, "Putin's Shadow Army."

8 Isenberg, "Putin's Pocket Army."

9 "News Transcript: Media Availability with Secretary Mattis," DoD, February 8, 2018.

10 "Briefing by Lieutenant General Harrigian," DoD, February 13, 2018.

11 Philip Kapusta, "The Gray Zone," *Special Warfare* 28, no. 4 (October–December 2015): 20 (emphasis in original).

12 For this article, a norm is "a standard of appropriate behavior for actors with a given identity." Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, 4 (Autumn 1998): 891.

13 International Committee of the Red Cross (ICRC), *Montreux Document: On Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict* (Geneva: ICRC, 2009), 9 (emphasis added).

Russian Thinking and Usage

Using contractors, and PMSCs as a subset of those actors, is a key element of the American way of war.[14] This application was made plain during the US-led interventions in Afghanistan and Iraq—for instance, US Central Command reported 176,000 contractors were deployed alongside the 209,000 uniformed personnel under its responsibility in 2010.[15] The PMSC employees accounted for about 15 percent of the private presence, an amount considerably larger than many military contingents offered by America's allies.[16]

For the United States, this development is, in part, a function of decades of decisions underscored by both the strategic requirement for resources and neoliberal thinking.[17] The integration concerns how, why, and by whom tasks are done, with an eye towards reaping the benefits of fostering a division between service managers and service providers with the latter facing potential competitors. The desired result is to reduce costs, gain efficiencies, and create economies of scale.

Looking back to the 1950s, the Eisenhower administration initiated public-private competitions. A decade later, the Johnson administration reinforced this approach through the *Performance of Commercial Activities* circular. The Reagan, Clinton, and W. Bush administrations bolstered the process and its dual fundamentals of preventing government competition with civilian enterprise and maintaining competitive responses and economic efficiency.[18] Analysis of the resulting changes reveals a movement from *government* towards *governance*.[19]

Given the fact that the United States is both the world's dominant military power and largest consumer of PMSC services, other states have taken note for the sake of assessment and adaptation if not emulation. For-profit actors, for instance, are now nestled into contemporary Russian considerations of the nature of war. Russian military doctrine released in 2014 specifically categorizes such nonstate actors as *private*

14 Deborah D. Avant and Renée de Nevers, "Military Contractors & the American Way of War," *Daedalus* 140, 3 (Summer 2011): 88–99; and Sean McFate, "America's Addiction to Mercenaries," *Atlantic*, August 12, 2016.

15 Moshe Schwartz and Joyprada Swain, *Department of Defense Contractors in Afghanistan and Iraq: Background and Analysis* (Washington, DC: Congressional Research Service [CRS], 2011), 5.

16 McFate, "America's Addiction."

17 Mark Erbel, "The Underlying Causes of Military Outsourcing in the USA and UK: Bridging the Persistent Gap between Ends, Ways and Means since the Beginning of the Cold War," *Defence Studies* 17, no. 2 (June 2017): 135–55. The prevalence of private actors in recent interventions reflects overly conservative calculations about force requirements. Scott L. Efflandt, "Military Professionalism & Private Military Contractors," *Parameters* 44, no. 2 (Summer 2014): 54.

18 *Performance of Commercial Activities*, Circular A-76 (Washington, DC: Office of Management and Budget, 1999); Ann R. Markusen, "The Case Against Privatizing National Security," *Governance* 16, no. 4 (October 2003): 480; and Jennifer K. Elsea, Moshe Schwartz, and Kennon H. Nakamura, *Private Security Contractors in Iraq: Background, Legal Status, and Other Issues*, RL32419 (Washington, DC: CRS, August 25, 2008).

19 On the challenges of transitioning from government to governance, see Elke Krahmann, "Security Governance and the Private Military Industry in Europe and North America," *Conflict, Security & Development* 5, no. 2 (August 2005): 247–68.

military companies.[20] Likewise, General Valery Gerasimov, chief of the General Staff of the Russian Armed Forces, has reflected on the changes in the conduct of warfare. While widely recognized as the Gerasimov doctrine, "doctrine" likely goes too far in terms of offering a sense of programmatic unity.[21] Nevertheless, for the purposes of this article, private military companies are presented therein as a new actor in the modern milieu.[22]

While Gerasimov and his colleagues may have merely acknowledged the American way of war or, relatedly, identified the means and challenges Russia will likely confront in the future, one can rightly argue that they do, in fact, describe Russian approaches and practices, especially regarding for-profit violent actors.[23] In the collective Russian approach towards these actors, the word "military" is quite flexible. From one angle, private military companies are deemed *nonmilitary* armed forces. This reflects the variance of manpower levels, weaponry types, and professionalism—or capability and firepower—compared to a state's army, navy, and air force.[24] From another angle, these actors are not solely for maintaining the status quo or for offering protective services. Instead, "private military companies . . . prepare an operational setup" for the eventual activities of state armed forces.[25] These actors can also conduct independent offensive operations. Moreover, the relationship between state authorities and private military companies is quite intimate, to the point that companies form " 'hybrid businesses,' technically private, but essentially acting as an arm of the Russian state."[26]

The characteristics and nature of this approach are informed by two factors. First, private military companies fit into "new generation warfare," which despite some differences is known in Western assessments as hybrid warfare.[27] In this approach, armed forces remain valuable; however, the state utilization and orchestration of nonmilitary measures of strategic influence are increasingly important.[28] On one hand, "new"

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20 Fredrik Westerlund and Johan Norberg, "Military Means for Non-Military Measures: The Russian Approach to the Use of Armed Force as Seen in Ukraine," *Journal of Slavic Military Studies* 29, no. 4 (2016): 581. "Private military company" is consistent with the Russian representation. "Private military and security company" covers various terms used to refer to private military contractors, private security companies, private security contractors, military service providers, and military provider firms. "All studies and accounts of PMSCs begin with the problem of simple definition: they are ambiguous or polymorphous entities." Kateri Carmola, *Private Security Contractors and New Wars: Risk, Law, and Ethics* (New York: Routledge, 2010), 9.

21 Keir Giles, *Russia's "New" Tools for Confronting the West: Continuity and Innovation in Moscow's Exercise of Power* (London: Chatham House, 2016), 10; Samuel Charap, "The Ghost of Hybrid War," *Survival* 57, no. 6 (December 2015–January 2016): 53; Andrew Monaghan, "The 'War' in Russia's 'Hybrid Warfare,'" *Parameters* 45, no. 4 (Winter 2015–16): 65–74; and Mark Galeotti, "I'm Sorry for Creating the 'Gerasimov Doctrine,'" *Foreign Policy*, March 5, 2018.

22 Westerlund and Norberg, "Military Means," 580.

23 Charap, "Ghost of Hybrid War," 53; and Timothy Thomas, "The Evolution of Russian Military Thought: Integrating Hybrid, New-Generation, and New-Type Thinking," *Journal of Slavic Military Studies* 29, no. 4 (2016): 555.

24 Westerlund and Norberg, "Military Means," 588. Special Forces, though in uniformed state service, are nevertheless also categorized as nonmilitary armed forces in the Russian approach.

25 Dimitry (Dima) Adamsky, *Cross-Domain Coercion: The Current Russian Art of Strategy*, Proliferation Papers 54 (Paris: Institut Français des Relations Internationales, 2015), 24; and Janis Berzins, *Russia's New Generation Warfare in Ukraine: Implications for Latvian Defense Policy*, Policy Paper 2 (Riga: National Defence Academy of Latvia, 2014), 13.

26 Mark Galeotti, "Moscow's Mercenaries in Syria," *War on the Rocks*, April 5, 2016.

27 Adamsky, *Cross-Domain Coercion*, 9, 21; Thomas, "Evolution of Russian Military Thought," 554; and Berzins, *Russia's New Generation Warfare in Ukraine.*

28 Adamsky, *Cross-Domain Coercion*, 9.

may be somewhat of a misnomer. The Soviet experience reveals a long history of relying upon nonstate actors, whether partisans or guerrillas, in various countries, to achieve directed military and policy objectives.[29] In this sense, contemporary Russia has not turned to military and security privatization to reduce costs, gain efficiency, and create economies of scale as is evident in the US case. Instead, with nonstate actors working in conjunction with the Russian state, Moscow is revisiting the use of nonstate uniformed means. On the other hand, Gerasimov asserts the "role of non-military means of achieving political and strategic goals has grown, and, in many cases, *they have exceeded the power of force of weapons in their effectiveness*."[30] In this "new" environment, actors like PMSCs are perceived to have a leg up, at least in some domains, vis-à-vis much larger state-based organizations.

The second factor is that the uncertain legal status of these nonstate actors in the Russian context heightens the obfuscation.[31] To explain, there are currently no rules in the Russian Criminal Code that define the use of Russian firms abroad. Companies so operating have had to present themselves as advisors or "training centers" or have sought incorporation outside of Russian territory.[32] This solution applied, for instance, to Russian firms conducting tasks such as defending maritime shipping from pirates, escorting logistics convoys in conflict zones, and protecting energy sector infrastructure. This approach is required to take a wide berth around Article 359 of the Russian Criminal Code that prohibits Russian mercenaries. In this context, a mercenary is "a person who acts for the purpose of getting a material reward, and who is not a citizen of the state in whose armed conflict or hostilities he participates, who does not reside on a permanent basis on its territory and who is not a person fulfilling official duties."[33]

The RSB-Group, for example, is registered domestically to work within Russia and registered in the British Virgin Islands for international operations.[34] In 2016–17, the RSB-Group employees worked in eastern Libya ostensibly to remove landmines. Owner Oleg Krinitsyn indicated, however, the firm had other tasks and operated under liberal conditions regarding the application of violence: "If we're under assault we enter

29 Notably, degrees of effort also varied during the Cold War with "the Soviet Union maintain[ing] more military advisors in Latin America and Africa than the US had globally." Graham H. Turbiville Jr., *Logistic Support and Insurgency: Guerrilla Sustainment and Applied Lessons of Soviet Insurgent Warfare: Why It Should Still Be Studied*, JSOU Report 05-4 (Hurlburt Field, FL: Joint Special Operations University, 2005), 12.

30 Robert Coalson, "Top Russian General Lays Bare Putin's Plan for Ukraine," *Huffington Post*, September 2, 2014 (italics added).

31 Unlike Russia, the United States recognizes PMSCs as entities subject to US legal measures. The Defense Department, the State Department, and the US Agency for International Development established the framework for referring possible violations of the Military Extraterritorial Judicial Act by PMSC personnel to the Justice Department. See National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 122 Stat. 3 (2008).

32 "Iraq, Private Russian Security Guards Instead of the Foreign Armies," *Asia News*, October 28, 2009; and Olivia Allison, "Informal but Diverse: The Market for Exported Force from Russia and Ukraine," in *The Markets for Force: Privatization of Security across World Regions*, ed. Molly Dunigan and Ulrich Petersohn (Philadelphia: University of Pennsylvania Press, 2015), 95.

33 Criminal Code of the Russian Federation, Fed. L. 64-FZ (1996), pt. 2, sec. 7, ch. 34, art. 359, para. 3; and Signe Zaharova, "Russian Federation: Regulatory Tools regarding Private Entities Performing Military and Security Services," in *Multilevel Regulation of Military and Security Contractors: The Interplay between International, European and Domestic Norms*, ed. Christine Bakker and Mirko Sossai (Oxford: Hart, 2012), 475.

34 Pavel Felgenhauer, "Private Military Companies Forming Vanguard of Russian Foreign Operations," *Eurasia Daily Monitor* 14, no. 36 (March 16, 2017).

the battle, of course, to protect our lives and the lives of our clients. . . . According to military science, a counterattack must follow an attack. That means we would have to destroy the enemy."[35] Moreover, the group operated in a region controlled by General Khalifa Haftar, a warlord enjoying both Egyptian and Russian support. Though the firm's actual employer is unknown, Krinitsyn did indicate the RSB-Group was "'consulting' with the Russian foreign ministry."[36] In short, the RSB-Group provided Russia the ability to maintain its influence without a uniformed state presence.

The malleability of the Russian approach is also evident in the case of the Moran Security Group and the Slavonic Corps. In 2013, supposedly Syrian paymasters hired the Moran Security Group to protect energy infrastructure. Moran gave this task to the Slavonic Corps (registered in Hong Kong), which provided 267 personnel for the proposed five-month mission.[37] The mission subsequently changed to offensive operations with activities directed against Syrian rebels. Poorly resourced, the service ended after only one month. Detaining the security personnel who returned to Russia in the fall of 2013, the Federal Security Services (FSB) also conducted the first arrests under Article 359—Vadim Gusev and Evgeny Sidorov, two Slavonic Corps commanders. This response occurred despite the fact that the head of Moran Security Group was a FSB reservist and the mission likely had FSB clearance.[38]

Finally, Russian firms can be absorbed into broader state initiatives designed to create hesitation and confusion consistent with gray-zone challenges. For instance, Russian orchestration of the conflict in Crimea and eastern Ukraine featured a variety of armed actors known as "green men" that brought about Russia's creeping success. Russian firms such as Wagner were part of this collage, and media reports suggest Wagner had access to a Russian military base near eastern Ukraine.[39] Reports also suggest the company's efforts were highly valued by other actors on the ground.[40] Indeed, the US government recognized Wagner's impact in the region after the fact: the company "recruited and sent soldiers to fight alongside separatists in eastern Ukraine. PMC Wagner is being designated for being responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine."[41]

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35 Maria Tsvetkova, "Exclusive: Russian Private Security Firm Says It Had Armed Men in East Libya," Reuters, March 10, 2017.

36 Tsvetkova, "Russian Private Security."

37 James Miller, "The Insane Story of Russian Mercenaries Fighting for the Syrian Regime," *Huffington Post*, November 21, 2013; James Miller, "Putin's Attack Helicopters and Mercenaries Are Winning the War for Assad," *Foreign Policy*, March 30, 2016; and Michael Weiss, "The Case of the Keystone Cossacks," *Foreign Policy*, November 21, 2013.

38 Weiss, "Keystone Cossacks"; Miller, "Russian Mercenaries"; and Gregory Wilson, "PROXY Capabilities: The History and Future of Russian Private Military Companies," Isenberg Institute of Strategic Satire, April 5, 2016.

39 Laurence Peter, "Syria War: Who Are Russia's Shadowy Wagner Mercenaries?," BBC News, February 23, 2018.

40 "The Ride of the Mercenaries: How 'Wagner' Came to Syria," *Economist*, November 2, 2017.

41 "Treasury Designates Individuals and Entities Involved in the Ongoing Conflict in Ukraine," US Department of the Treasury, June 20, 2017.

Toward a Diplomatic Strategy

The United States has had many reasons to set limits on the PMSC industry. Certainly, America wished to avoid accusations of hiring mercenaries, who are inherently shadowy actors in the modern context. The pejorative term, *mercenary*, would have tainted US initiatives in already complex undertakings such as the interventions in Afghanistan and Iraq. The United States Federal Acquisition Regulation plainly establishes PMSC personnel are "not mercenaries and are not authorized to engage in offensive operations."[42] Though the international legal definition of a mercenary does not make an offensive or defensive differentiation, nor does Article 359 of the Russian Criminal Code, the United States, through its purchasing power and regulatory activities, has instilled this distinction.[43]

Moreover, making this distinction permitted the US military to focus actively upon offensive undertakings that upset the status quo, showed initiative in theatre, seized territory (rather than only holding it), and demanded specialized skillsets and sophisticated equipment denied to other actors.[44] In the official US determination then, PMSCs are defensively boxed: "The use of force by [PMSCs] is limited to self-defense, the defense of others and the protection of U.S. Government property. . . . [PMSCs] may not engage in combat, which is defined as deliberate destructive action against hostile armed forces or other armed actors."[45]

Making this distinction was also valuable because other states, as indicated above, followed the US lead vis-à-vis military and security privatization. Since the PMSC activities of others could negatively impact US operations in theatre, framing the PMSC industry through common practices, expectations, and regulation became important.[46] Thus the United States was a key negotiating party and one of the original state signatories to the *Montreux Document*, which at the time of writing, had been endorsed by 54 states, 24 of which are NATO members and many of whom are close US allies; Russia is not a signatory.

Linked to this evolution, the American National Standards Institute and ASIS International developed the PSC.1 Standard in 2012, at the request of the US Department of Defense.[47] This standard operationalizes the *International Code of Conduct for Private Security Service Providers*, the industry's supporting initiative for the *Montreux Document*.[48]

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42 *Hearing on Department of Defense Contracting in Iraq and Afghanistan, Before the Senate Armed Services Committee*, 110th Cong 13 (April 2, 2008) (statement of Mr. P. Jackson Bell, Deputy Under Secretary of Defense for Logistics and Materiel Readiness), 13.

43 ICRC, *Protocols Additional to the Geneva Conventions of 12 August 1949* (Geneva: ICRC, 2010), article 47.

44 Christopher Spearin, *Private Military and Security Companies and States: Force Divided* (London: Palgrave Macmillan, 2017), 23–50, 89–116.

45 "Private Security Companies," Office of the Assistant Secretary of Defense for Logistics & Materiel Readiness, accessed May 2, 2018.

46 Deborah D. Avant, "Pragmatic Networks and Transnational Governance of Private Military and Security Services," *International Studies Quarterly* 60, 2 (June 2016): 338.

47 ASIS International (ASIS), *Management System for Quality of Private Security Company Operations—Requirements with Guidance*, ANSI/ASIS PSC.1-2012 (Alexandria, VA: ASIS International, 2012).

48 ICRC, *International Code of Conduct for Private Security Service Providers* (Geneva: ICRC, 2010); and Whitney Grespin, *The Evolving Contingency Contracting Market: Private Sector Self-Regulation and United States Government Monitoring of Procurement of Stability Operations Services* (Carlisle, PA: Peacekeeping and Stability Operations Institute, 2016), 24.

As stressed by Ian Ralby, PSC.1 "provides auditable procedures for the development, certification, and monitoring of ongoing compliance" of PMSCs at home and abroad.[49] The US Departments of Defense and State now require PSC.1 compliance for the firms they hire, and other state and private clients of PMSCs have embraced the standard.[50]

Given the particular nature of Russia's reliance upon military and security privatization, the United States faces a challenge with two characteristics. First, Russia's offensive use of these nonstate actors conflicts with the longstanding US practice and political efforts toward limiting PMSCs to defensive endeavors. Second, Russia utilizes, rather than employs, these actors. This challenge is exacerbated further by the relationship between the two nations: Russia is not an ally with whom the United States might engage closely or diplomatically nor are the countries likely to develop a common practice in theatre.

Nevertheless, the United States might make progress by drawing attention to how Russia relies upon military and security privatization. As Deborah Avant notes, one cannot ignore the impact of the United States, which "has chosen to play a large consumer role in this market and its choices have therefore had a large impact on the market's ecology."[51] This role has helped to limit what the international industry *should sell* and to indicate, in a normative sense, what other interested parties *should buy*. This "defensive" norm does not collapse simply because Russia does not fully follow it in the first or early instances. However, given that norms are influenced strongly through practice, especially the practice of powerful actors, they could loosen. This weakening standard would have negative implications for maintaining international peace and security and managing violence worldwide. In short, a strong US influence can preserve the country's normative power to maintain global stability.

In this vein, the US government recently upheld its defensive credentials by turning down the possibility of employing PMSCs more robustly and offensively. On several occasions in 2017, Erik Prince, the founder of the PMSC Blackwater, advocated for the United States to take a new approach towards its operations in Afghanistan. His plan, directed more towards counterterrorism than counterinsurgency, called for reducing the US military presence. Prince proposed 5,000 contractors and 90 privately supplied aircraft to replace departing US military elements.[52] Rather than rotating in and out as state military forces do, this private presence would be a long-term engagement at a substantially lower annual cost of $10 billion rather than the $45 billion spent currently. Under this plan, these private personnel would both mentor and become enmeshed within the Afghan security sector. Personnel would become more and more engaged in the full spectrum of operations, moving beyond the limitations set for the international PMSC industry. Nevertheless, despite President Trump's avowed tendency toward unorthodox solutions, the proposal was not acted upon.

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49 Grespin, *Evolving Contingency Contracting Market*, 24.

50 Avant, "Pragmatic Networks," 339.

51 Deborah D. Avant, *The Market for Force: The Consequences of Privatizing Security* (Cambridge: Cambridge University Press, 2005), 220.

52 Erik D. Prince, "The MacArthur Model for Afghanistan," *Wall Street Journal*, May 31 2017; Erik Prince, "Erik Prince: Contractors, Not Troops, Will Save Afghanistan," *New York Times*, August 30 2017; and William Gallo, Ayub Khawreen, and Hasib Danish Alikozai, "Plan to Privatize US War in Afghanistan Gets Icy Reception," Voice of America, August 12, 2017.

The second reason to preserve this normative power relates to the strategic implications for the United States. As Russia has made clear, companies can be used in gray-zone conflict activities that feature "rising revisionist intent, a form of strategic gradualism, and unconventional tools."[53] Gray-zone practitioners look to upend the international system favoring the United States slowly through efforts that fall short of major armed conflict or that occur in bewildering ways. For Russia, its use of firms deviates from US expectations, promotes deniability, and increases confusion in regions of US interest.

Given the difficulty in deterring Russia from utilizing a particular tool in its gray-zone arsenal, either through the threat of force or sanction, US promotion of the *Montreux Document* might help steer privatization efforts away from the aforementioned ambiguity, opacity, and uncertainty inherent in wider gray-zone endeavors. Formal, state-sanctioned efforts will bring the utility of unconventional gray-zone strategies into doubt.[54] To avoid the castigation caused by having its efforts labeled mercenary and obscure, Russia might eventually sign the document or at least adopt a similar approach.

Several factors underscore this contention. To start with, the *Montreux Document* has a catholic approach to "private business entities that provide military and/or security services, irrespective of how they describe themselves."[55] The document can, therefore, apply to a variety of activities. In turn, by identifying and relying upon existing international law, the document spells out the pertinent legal obligations for states. Fulfilling these requirements makes it less likely that states can deny a PMSC presence and argues against the notion that the organizations exist in legal limbo. To ensure further transparency, the document outlines good practices for states to follow. Thus, promoting the internationally recognized *Montreux Document* rather than advancing the US standard PSC.1, which might be problematic for universal acceptance, would make diplomatic sense.

Furthermore, the management and control of violence concerns all states. One can view this from two angles. First, as Jack Straw asserted when he was the United Kingdom's Secretary of State for Foreign and Commonwealth Affairs, "The control of violence is one of the fundamental issues—perhaps the fundamental issue—in politics."[56] Managing and framing the limitations on nonstate actors capable of applying violence has been a long-term effort, arguably ongoing since the Peace of Westphalia in 1648. It is a task engaged by states for the sake of preserving the state as an institution and for creating joint

53 Michael J. Mazarr, *Mastering the Gray Zone: Understanding a Changing Era of Conflict* (Carlisle, PA: Strategic Studies Institute, 2015), 4.

54 On June 20, 2017, the US Treasury Department implemented sanctions against a handful of Russian actors and entities, including Dmitry Utkin, Wagner's founder. This action coincided with President Trump's meeting with Ukrainian President Petro Poroshenko in the White House. Note, however, that these sanctions did not halt Russia's usage of Wagner in Syria. Stepan Kravchenko and Jake Rudnitsky, "U.S. Expands Russia Sanctions as Trump Meets Ukrainian Head," Bloomberg, June 10, 2017; and Shaun Walker and Julian Border, "US Broadens Russia Sanctions as Ukraine President Visits Trump," *Guardian* (Manchester), June 20, 2017.

55 ICRC, *Montreux Document*, 9.

56 United Kingdom Foreign and Commonwealth Office, *Private Military Companies: Options for Regulation 2001–02*, HC 577 (London: The Stationery Office, 2002), 4.

expectations within the international society of states.[57] Second, in a more immediate way, while the Russian use of these nonstate actors is cast in the context of upending the international system favoring the United States, gray-zone conflict dynamics and revisionist intents might appeal to other states who wish to shift at least a local dyadic or regional status quo. Consequently, these objectives arguably behoove many states to prevent erstwhile adversaries from asymmetrically levelling the playing field through military and security privatization. Taken together, the United States need not focus solely on Russia given the wider international utility.

Additionally, there are specific Russian matters to consider. Although it did not sign the *Montreux Document*, a Russian delegation was involved early in the negotiations. Most likely, Western criticism of Russia's August 2008 conflict with Georgia subdued Moscow's interest in the initiative.[58] In this vein, though they have not come to fruition, there have been several domestic legislative attempts to authorize and legalize the foreign work of Russian firms.[59] Finally, there have been concerns within the Russian security sector that substantial military and security privatization efforts will affect morale and give rise to unhealthy competition.[60] Taken together, these factors speak to a larger constituency for having Russia become part of the international normative fold.

Concluding Remarks

Russia's use of firms as offensive tools in gray-zone conflict is not in keeping with the defensive use of PMSCs established by global practices underscored by the United States. Indeed, the United States sets such standards in large part by its own usage of PMSCs, by serving as an example for others, and by its diplomatic engagement, often with close allies. Russia's application of these nonstate actors is also contrary to the associated effort to make the industry more transparent and less deniable. As such, a renewed emphasis on spreading the merits of the *Montreux Document* would be an appropriate US policy response. Such an effort is important because, as is plain with the Russian experience, the PMSC phenomenon should no longer be interpreted as a creature of policymaking within the United States and between it and its allies. Many PMSCs are now a part of the confrontational, if not adversarial, relationships between great powers.

Given these stakes, this article recommends two avenues for further examination. The first is for the United States to engage the PMSC industry to sustain and to elevate the *Montreux Document*. Earlier actions

57 Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton, NJ: Princeton University Press, 1996), 7–20.

58 James Cockayne, "Regulating Private Military and Security Companies: The Content, Negotiation, Weaknesses and Promise of the Montreux Document," *Journal of Conflict & Security Law* 13, 3 (2009): 425.

59 "RBC Publishes Report Sourced in FSB and Military on Wagner Private Military Contractor with 2,500 Fighters in Syria," *Interpreter*, August 26, 2016; Wilson, "PROXY Capabilities"; Pierre Vaux, "Fontanka Investigates Russian Mercenaries Dying for Putin in Syria and Ukraine," *Interpreter*, March 29, 2016; "Bill To Allow Private Military Contractors Submitted to Russian Parliament," RT, October 22, 2014; and Alexey Eremenko, "Blackwater.ru: The Future of Russian Private Military Companies," *Moscow Times*, November 12, 2014.

60 As an example, officials raised these concerns in the context of the Russian government decision allowing firms like Gazprom to develop their own security forces. See also "Ride of the Mercenaries," *Economist*.

and statements of individual companies and industry associations suggest they too wish to avoid the normatively pejorative label of mercenary.[61] To capture this statistically, over 700 companies have signed the aforementioned International Code of Conduct for Private Security Service Providers. Consideration might be given, therefore, to catalyzing and supporting industry activism that might ensure PMSCs do not become tarnished by the "offensiveness" of Russian activities.

The second avenue concerns engaging close US allies—in particular, relying upon NATO as a platform through which to advance the *Montreux Document*. On one hand, United States-NATO relations are rocky at the time of writing. On the other hand, European NATO members are now paying more attention towards continental defense, not because of US badgering but because they recognize the challenge posed on their eastern flank.[62] Forming part of this challenge is Russia's usage of companies, which is part of Moscow's gray-zone arsenal. Given that NATO has worked to counter other elements in this arsenal through efforts such as its Centres of Excellence for Strategic Communications, for Cooperative Cyber Defence, and for Countering Hybrid Threats, promoting the *Montreux Document* would fit well into this repertoire. Moreover, NATO has already highlighted its acceptance of the document in the context of human security furtherance through the binding and regulation of the PMSC industry.[63] Thus, one more step would be to put the PMSC issue into the frame of European defense. This would permit European NATO members to address matters better in their own neighborhood and to highlight to states in other regions the challenges presented by similar offensive and difficult to counter activities.

61 Spearin, *Private Military*, 101.

62 Lucie Beraud-Sudreau and Bastian Giegerich, "NATO Defence Spending and European Threat Perceptions," *Survival* 60, 4 (August–September 2018): 53–54.

63 "NATO Partners–Building on Two Decades of Success," NATO, May 28, 2014.