

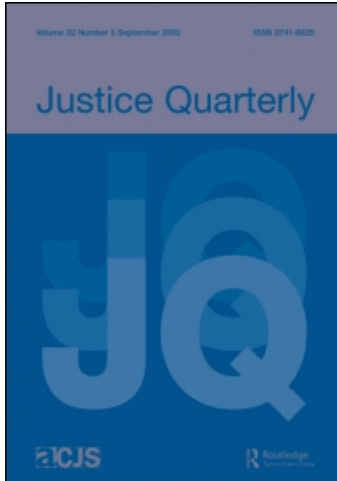
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Private Military Contractors, Crime, and the Terrain of Unaccountability

Dawn L. Rothe and Jeffrey Ian Ross

Criminological research has traditionally attempted to explain the etiological factors of crime and then suggest appropriate controls. More often than not, the foci of this kind of work have remained on "street crime." Since the 1990s, however, some scholars have turned their attention to the causal factors of corporate crime, state crime, crimes of globalization, supranational crimes, and their various permutations and interconnections. Clearly missing from this literature is the growing phenomenon of private military contractors (PMCs) and the criminogenic culture of and atmosphere within which they operate. Specifically, while the use of PMCs is rapidly growing, the increasing propensity for PMC's criminogenic culture and the unregulated nature of what has become a global industry is rarely studied by social scientists. Further, few criminologists have examined this area of research by applying criminological theory to explain the growth and emergence of PMCs. Our goal is to help fill this gap. Through the process of theory building and refinement we identify factors that facilitate the criminogenic environment within which PMCs operate. Additionally, without attempting to expand explanatory and causal mechanisms, policies aimed at reducing PMC criminality and social justice for their victims cannot be developed. As such, we draw from theoretical developments

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in state and state-corporate crime, social disorganization, and anomie literature to shed light on key factors associated with PMCs, namely, the criminogenic atmosphere within which they operate.

Keywords state crime; international criminal law; crimes of globalization; state-corporate crime; international organizations

Introduction

After the Cold War, the USA, along with other industrialized countries, began downsizing their military and privatizing military logistical services (e.g., Rothe, 2006a; Singer, 2005). As the international arena openly promotes a global market and laissez-faire capitalism, transnational corporations continued to expand their role within the globalizing economy. The overall pattern of transnational globalization and military privatization that emerged out of the early 1990s reinforced a general symbiotic relationship between states and corporations. Although it has long been acknowledged by many scholars that the state plays a major role in protecting the capitalistic system (especially corporate interests), these relationships continue to take on new forms (Chambliss & Zatz, 1993; Gold, Lo, & Wright, 1975; Matthews & Kauzlarich, 2000; Michalowski & Kramer, 2006a). Indeed, states and markets are mutually interdependent and as markets are embedded in states, it is often, though not necessarily always in the states' interests to maintain a dominant role in forming coalitions with transnational institutions and the private sector. Nonetheless, a symbiotic relationship between state and capitalism does not historically mean ipso facto that it supports corporate interests or that it is some inescapable laws of capitalism.¹

Private military contractors (PMCs) have become common and "significant players in conflicts around the world, supplying not merely the goods but also the services of war" (Singer, 2005, p. 1). PMCs have grown to include nearly 90 companies and they are used in more than 110 countries providing an array of services (e.g., logistical support, security protection, special operations, interrogations, and combat). Further, not only have they been hired by democratic governments, the United Nations (UN), and even humanitarian and environmental organizations, but dictatorships, militias, drug cartels, and at least two al

1. Historically, it was not always the case that supporting capitalism meant unregulated deference to corporate private interest. Yet, state and corporate interests have often been the same (e.g., Hudson's Bay Company, East India Trading Company, etc.), with states granting corporations exclusive rights to certain territories and commodities, in order to protect them from legal liability. In the USA the 14th amendment (guaranteeing equal rights), originally intended to protect freed slaves, was used by capitalists like Rockefeller, Dupont, and Mellon to redefine the corporation as a "person" entitled to these same rights, while at the same time, the Constitutional safeguards and protections of freedom to gather or speak or to due process were no longer applied to the worker/employee or to the common community, and the only responsibility or obligation of the corporation became to the privately owned share holders or to the bottom line, as the individuals making up the corporation were freed from any personal or individual liability for corporate injury or harm.

Qaeda-linked jihadi groups have employed the services of PMCs. As Cofer Black, Vice President for Blackwater's Moyock NC headquarters, stated: "We're low-cost and fast. The issue is who's going to let us play on their team?"²

These private forces (e.g., Bechtel, Blackwater, CACI International, DynCorp, Halliburton and subsidiary Kellogg, Brown, and Root, Logo Logistics, and Titan) have had an exponential growth since 11 September 2001. Within the last decade private military corporations have increasingly come under the scrutiny of governments, the UN, journalists, activists, and academics. Allegations of their criminal activities include attempted assassinations, arms brokering and transportation in violations of UN arms embargoes, torture, murder, fraud, and illegal trafficking of goods.³ However, not all PMCs are the same. As Singer (2005, p. 2) noted, there are three general categories of these corporations: (1) Military provider firms, also sometimes self-described as "PSCs" or "private security firms," that offer direct, tactical military assistance to clients, which may include serving in front-line combat. The classic examples include Blackwater, Executive Outcomes (EO), Sandline, and Logo Logistics. (2) Military consulting firms that draw on retired senior and non-commissioned officers to provide strategic advisory and training expertise for clients who are looking to transform their organizations. The best example for this category would be Blackwater. (3) Military support firms that carry out multi-billion dollar contracts in the way of providing logistic services, intelligence, and maintenance services to armed forces. Key corporations under this category include Halliburton, DynCorp, CACI, and Titan (Rothe, 2006a).

As there are distinct variations in the services provided by these PMCs, there are also variations in the types of crimes generally committed by the different sectors. For example, generally speaking, logistical PMCs or support firms are associated with overcharging, lack of services, account irregularities, and illegal trading. On the other hand, services or support firms providing intelligence have been linked to torture and illegal arms trading, while private security firms have been connected to coups, crimes against humanity and war crimes.

For example, EO emerged out of and was a major contractor of the South Africa apartheid regime (Whyte, 2003). During 1989-92, EO was an agent of the former apartheid state acting as a covert force in the conflict until 1990 when the state's Special Forces organization was deactivated. EO also had a symbiotic relationship with large transnational and domestic mining sector corporations, in particular, with the diamond world, including the De Beers conglomerate.⁴ It is worth noting that De Beers has been actively involved in the illegal smuggling and trade of diamonds in the Democratic Republic of the Congo. EO's role in protecting such transnational corporations as they commit international crimes adds additional layers to which PMCs can be entangled in criminal activity.

2. Quoted in Walker (2006, p. 1).

3. For example, several DynCorp employees allegedly ran a prostitution ring while working in the Balkans, selling the services of girls as young as 12 years old. For more information see "Colombia: Private Companies on the Frontline", *Financial Times*, August 12, 2003, p. 15.

4. For a more detailed analysis of the role of De Beers and other transnational corporations illegal activities in the Congo, see Mullins and Rothe (2008).

Executive Outcomes was also active in the Angolan conflict as agents working for the state which over a two-and-a-half-year period netted the corporation 40 million US dollars and lucrative diamond and oil allowances (Pech, 2007). EO also provided security for Branch Energy, a British mining subsidiary of Diamondworks, a Canadian company, holding the major Kimberlite concession in Sierra Leone. They were hired to defeat the insurgencies in Angola and Sierra Leone providing services more often referred to as "mercenary for hire" (Howe, 1998). Specifically, in 1995, the government of Sierra Leone contracted with EO to help subdue the rebellious Revolutionary United Front. EO quickly assumed control over all offensive operations and, when asked how to distinguish between civilians and rebels, EO commanders supposedly ordered their pilots to just "kill everybody" (Garmon, 2003). In 1998, EO "disbanded" but reformed as Lifeguard and through common players, Sandline International (e.g., Col. Tim Spicer, founder of Aegis Defence Services and co-founder of Sandline, Tony Buckingham, regularly linked with Branch Energy, EO and Sandline, and Simon Mann founder of Sandline).

Sandline⁵ International's work placed them in the heart of conflicts where they have been accused of illegal trade and arms brokering. In 1997, Sandline was hired by the Papua New Guinea (PNG) government to end a rebellion by "insurgents" on the island of Bougainville and also as an import agent of Russian arms for the regime. Originally this contract was given to EO; however, they subcontracted the work to Sandline. Essentially, they processed the arms procurement through a separate London-based company that "brokered the sale of former Soviet surplus equipment purchased in Belarus ... for sale at high prices to governments of developing countries" (Wood & Peleman, 1999, chap. 7, p. 1). The contract also called for Sandline to carry out "offensive operations" in conjunction with PNG Defense Forces to render the insurgency ineffective and to take possession of the Panguna mine (a copper mine). Sandline has also been accused of violating an arms embargo and UN sanctions by supplying military equipment under the radar of the UN due to the embargo to aid ousted President Ahmad Tejan Kabbah of Sierra Leone.

Logo Logistics, a British-South African PMC, was also accused of plotting to overthrow the Equatorial Guinea's government, known as the Wonga Coup (Roberts, 2006; Singer, 2005). On 7 March 2004, Mann and 69 employees were arrested, charged with violating the country's immigration, firearms, and security laws and of engaging in an attempt to stage a coup-d'état (Pelton, 2007, p. 317).

Since the mid-1990s, many of USA-based Halliburton's⁶ corporate actions have come under the scrutiny of several US governmental oversight organiza-

5. Former head of Sandline, who was directly involved in the mentioned illegalities, has now gone on to create Aegis, a new PMC which has significant contracts with the US government in Iraq and elsewhere.

6. Halliburton was first established in 1919. Since that time they purchased several subsidiaries including Brown and Root (the consortium of Devonport Management LTD), Dresser Industries (known as KBR after the purchase of M. W. Kellogg by Dresser), Landmark Graphics Corporation, Wellstream, Well Dynamics, Eventure, and Subsea 7.

tions [such as the Securities and Exchange Commission (SEC), US General Accounting Office (GAO)], and Congressional leaders. Allegations and charges include systematically overcharging the US government for contracted work, utilizing bribes to obtain foreign contracts, and using subsidiaries and foreign joint ventures to bypass US law restricting trade embargos.

In 2004, Halliburton was under investigation for international bribery charges by the French Government. The bribes occurred during the mid-1990s through 2000 to a Nigerian state official. In a separate but related inquiry by the US Justice Department and the SEC, additional charges were incurred for using bribery to obtain foreign oil contracts. The US GAO charged Halliburton in 1997 for billing the US Army for questionable expenses for work in the Balkans, including charges of \$85.98 per sheet of plywood that cost Halliburton \$14.06 and "cleaning" offices up to four times a day. A 2000 follow-up report by the GAO found continuous systematic overcharges in its billing to the US Army (Rothe, 2006a, 2006b). In a 2002 filing with the SEC, Halliburton acknowledged that one of its foreign subsidiaries operating in Nigeria made improper payments of approximately 2.4 million US dollars to an entity owned by a Nigerian national (Rothe, 2006a, 2006b). In February 2002, Halliburton paid 2 million dollars in fines to resolve fraud claims for contract work at Fort Ord, California. The Defense Department Inspector General and a federal grand jury also investigated allegations that a subsidiary of Halliburton, KBR, defrauded the government of millions of dollars through inflated prices for repairs and maintenance.

The US Pentagon audit found that between 2002 and 2004 Halliburton (KBR) was overcharging for approximately 57 million gallons of gasoline delivered to Iraqi citizens under a no-bid contract during the "Operation Iraqi Freedom." Halliburton was also charged with improprieties surrounding a joint venture with Morris Corporation, an Australian catering company (a 100 million dollar contract to supply meals to US troops in Iraq). They cancelled the contract six weeks after it was signed when it was revealed that an employee sought kick-backs worth up to 3 million dollars during the negotiations of the subcontract work. Yet, Halliburton failed to inform the military that the Morris contract to supply meals had been cancelled while continuing to charge more than 1 billion dollars for catering services it was not providing (Rothe, 2006a).

CACI's and Titan's employees have "experience in conducting tactical and strategic interrogations in accordance with local standard operating procedures and DOD regulations" (CACI, 2002). Recall that both CACI and Titan personnel have been implicated in torture, abuse, and murder in Iraq, more specifically at the Abu Ghraib prison. Of the 37 "formal" interrogators at Abu Ghraib, 27 were employed by CACI and 22 linguists' interpreters assisting interrogators were working for Titan. In 2004, the Center For Constitutional Rights, the University of Pennsylvania, the University of Chicago School of Law, and a handful of volunteer lawyers in the USA brought a civil suit on behalf of hundreds of Iraqi prisoners abused and tortured by American contractors working for CACI and Titan, charging thirty-one counts of violations including common law torts (such as assault and battery), as well as violations of

international human rights, and a RICO (Racketeer Influenced & Corrupt Organizations ACT) conspiracy charge.

Regardless of the type or services provided by PMCs, they have a propensity to commit illegal acts. Given that many of these companies follow military organizational styles, semi-bureaucratic forms, and that they are for-profit like other corporations, there is a unique characteristic of or factors surrounding PMCs that lend to a propensity to commit crimes during the course of their missions, whether that be individual agents within the organization acting on their self-interests or those carrying out organizational goals. While we are not saying that all private military corporations are criminal, we are suggesting that they are more susceptible to criminal activities due to the criminogenic atmosphere they operate within.

As criminologists, we should not only be concerned with these criminal activities, but also attempt to analyze why these particular corporate organizations appear to be more criminogenic than other corporations. As such, we bring together state-corporate crime, social disorganization, anomie, and criminogenic organizational literature to shed light on key factors associated with why we believe, PMCs are prone to more corporate and state-corporate criminality than other transnational corporations.

The Concept of State-Corporate Crime

Edwin Sutherland's contributions (1939, 1948, 1949) radically changed the field of criminology by introducing an expanded version of what constitutes crime. Although his definition of white-collar crime was somewhat ambiguous, it led the field of criminology into decades of debates over what constitutes a crime. It prompted the field to expand beyond the etiology of street crime to examine corporate crimes in the form of occupational crimes and organizational crimes (Braithwaite, 1984; Clinard, 1946; Clinard & Quinney, 1973; Clinard & Yeager, 1980; Geis, 1967; Kramer, 1982; Michalowski & Kramer, 1987; Quinney, 1977; Schrager & Short, 1978; Schwendinger & Schwendinger, 1970; Vaughan, 1982). In his 1989 American Society of Criminology Presidential speech, William Chambliss argued that the focus on corporate and occupational crimes should be expanded to state crime as a field of inquiry (Chambliss, 1989).

A handful of criminologists heeded this call and since then have produced significant work on state crime (e.g., Barak, 1991; Friedrichs, 1998; Kauzlarich, 2008; Kauzlarich & Kramer, 1998; Kauzlarich, Matthews, & Miller, 2001; Kramer & Michalowski, 2005; Michalowski & Kramer, 2006b; Mullins & Rothe, 2008a, 2008b; Ross, 1995/2000a, 2000; Rothe, 2006a, 2006b, 2009a, 2009b; Rothe & Mullins, 2006, 2008, 2009). Nevertheless, the complex entanglement between state actors and private actors (in particular corporations) became a central issue in examining many cases of state crime and/or corporate crime. This interplay of public and private sectors came to be viewed as a catalyst for a new category of crime: state-corporate crime. The earliest definition of state-corporate crime given by Kramer was:

State-corporate crime is ... illegal or socially injurious social action that is the collective product of the interaction between a ... corporation and a state agency ... [they] involve the active participation of two or more organizations, at least one of which is private and one of which is public. They are the harmful result of an inter-organizational relationship between business and government. (1990, p. 1)

Michalowski and Kramer⁷ (1990, p. 4) refined the previous definition by Kramer (1990) with the following widely cited definition of state-corporate crime: "State-corporate crimes are illegal or socially injurious actions that occur when one or more institutions or political governance pursue a goal in direct cooperation with one or more institutions of economic production and distribution."

State-corporate crime increasingly came to be seen as taking two forms, although these types often interacted with each other. Accordingly, a distinction emerged between state-facilitated and state-initiated crimes (Kauzlarich & Kramer, 1993, 2006; Kramer, 1992).

In sum, this work proposed and explored a "framework for examining how corporations and governments intersect to produce social harm" (Kramer, Michalowski, & Kauzlarich, 2000, p. 263). Such intersections work in various ways. States can create laws which facilitate corporate wrongdoing and crimes (e.g., the infamous Savings and Loan debacle within the USA during the late 1980s), regulatory and advisement agencies can simply fail to do their appointed tasks and all corporations can be free to pursue criminal wrongdoing unabated, e.g., OSHA's failure to provide remedy to safety violations at an Imperial Chicken plant in Hamlet, North Carolina (Aulette & Michalowski, 1993), the FAA's failures to ground ValuJet airlines (Matthews & Kauzlarich, 2000), and NHTSA's disinclination to investigate tire failures and roll over events on Ford Explorers (Mullins, 2006). States and state actors can also directly collude and conspire with private corporations to violate laws (e.g., Halliburton's actions in Iraq, Rothe, 2006a, 2006b).

With the increasingly international nature of corporate operations, capital accumulation and dispersement, these types of crimes have taken on an increasingly international dimension (Friedrichs & Friedrichs, 2002; Rothe, Muzzatti, & Mullins, 2006). After all, the tendency for states and corporations to mutually reinforce each other is at the core of the international capital market (Whyte, 2003). As noted by Gross (1978, p. 56): "...there is built into the very structure of organizations an inherent inducement for the organization itself to engage in crime." For Gross and others this rests on the relationship between capitalism and corporations where attainment of profit leaves corporations susceptible to criminality (Box, 1983). Furthermore, PMCs "are driven by the same business motivators, such as profit, growth, corporate sustainability, shareholder value, and achievement" as other commercial entities (Sandline International, 1998, p. 1). While grounding state-corporate crime in the inter-relationship between state and corporation in a capitalistic environment may have some validity, we believe it does not fully explain why some corporations

7. For a reprint of the original formulation see Kramer and Michalowski (2006).

are more prone to criminal activity than others simply because of the profit driving force or their relationship to the capitalistic economic order. There are an abundance of corporations that do not commit crimes. So we ask what can explain why PMCs, as a for-profit corporation, are more prone to criminal activities than other multi- or-transnational corporations.

Theory Building

An Integrated Theoretical Approach

Since Sutherland, there has been a growing body of theoretical literature trying to explain specific deviant/criminal corporate acts. The first integrated model dates back to Kramer and Michalowski (1990, 2006), and later revised by Kauzlarich and Kramer (1998), Rothe (2006a, 2009a, 2009b), and Rothe and Mullins (2006, 2007, 2008, 2009). Kauzlarich and Kramer (1998) integrated components of several traditional criminological theories. For example, they draw from the Mertonian concepts of anomie and strain, rational choice, differential association, routine activities, political economy, and organizational models. Specifically, Kauzlarich and Kramer recognize that anomie and strain play a limited role in corporate decision-making in that if an organization's goals are blocked, they may experience strain and find illegal or alternative means to accomplish their goals (Rothe & Mullins, 2006). At the organizational level, Kauzlarich and Kramer draw heavily from organizational theorists. They, along with organizational theorists, argue that organizations are strongly goal-oriented⁸ and concerned with performance. As Kauzlarich and Kramer argue, organizational crime depends on two other factors—availability of illegal means and a weak social control environment that fosters organizational crime (p. 146).

Organizational opportunities are said to include instrumental rationality, role specialization, and task segregation while controls include a culture of compliance, reward structure, safety and quality control procedures, and effective communication processes. They suggest that the structure of corporate capitalism provides the impetus toward organizational crime (p. 146), thus becoming crimes of capital (Michalowski, 1985; Michalowski & Kramer, 2006a). Rothe and Mullins (2009) note that while Kauzlarich and Kramer's model (1998) incorporates elements of organizational theory, it is limited to highly bureaucratic institutions. However, not all state-corporate crime offenders are situated into highly rationalized organizational models. As such, the social processes and a broader conception of the specific organizational culture is essential in understanding these crimes, albeit states, paramilitaries or militias.

Mullins and Rothe (2008a), Rothe and Mullins (2006, 2007, 2008, 2009), and Rothe (2009a) use many of the theoretical concepts advanced by Kramer, Michalowski, and Kauzlarich but expand the theory to incorporate international

8. These include operative goals, subunit goals, and managerial goals.

International Level	Motivation	Opportunity	Constraints	Controls
	Political interests	International relations	International reaction	International law
	Economic interests	Economic supremacy	Political pressure	International sanctions
	Resources	Military supremacy	Public opinion social movements	
	Ideological interests	Complementary legal systems	NGOs and INGO	
			Oversight/economic institutions	
Macro Level	Structural transformations	Availability of illegal means	Political pressure	Legal sanctions
	Economic pressure or goals	Control of information	Media scrutiny	Domestic law
	Political goals	Propaganda	Public opinion	
	Ethnogenses	Ideology/nationalism	Social movements	
		Military capabilities	Rebellion	
Meso Level	Organizational culture and goals	Communication structures	Internal oversight	Codes of conduct
	Authoritarian pressures	Means availability	Communication structures	
	Reward structures	Role specialization	Traditional authority structures	
Micro Level	Strain	Obedience to authority	Personal morality	Legitimacy of law
	Socialization	Group think	Socialization	
	Individual goals and ideologies	Diffusion of responsibility	Obedience to authority	Perception of reality of law application
	Normalization of deviance	Perceived illegal means	Informal social controls	
	Definition of the situation			

Figure 1 An integrated theory for international criminal law violations. *Note.* For previous versions, see Mullins and Rothe (2008a), Rothe (2009a), and Rothe and Mullins (2006, p. 213, 2008, 2009).

variables including, but not limited to, factors associated with non-capitalistic endeavors of corporations and/or states, international relations, the international legal system, and components of social disorganization. Additionally, as indicated in Figure 1, they propose other features which allow for the adaptation of catalysts that may be unique to specific cases (e.g., paramilitary groups, insurgencies, militias, post-colonial conditions, and weakened or illegitimate governments). Nonetheless, certain variables are more relevant or have a higher correlation to specific crime commission than others. We suggest that in the case of PMCs, the factors most relevant are anomic conditions—absence of controls and social disorganization. In other words, while goal attainment, political economy, socialization, an organization's culture, communication structure, control of information, and other variables facilitate creating a criminogenic environment, we propose that such factors may play a secondary role when structural and organizational environments are anomic and highly socially disorganized.

Unlike previous attempts that draw directly from the concept of anomie where there is a disjuncture between the goal attainment and the means (Kauzlarich & Kramer, 1998) or a blurring of legitimate and illegitimate means due to uncertainty of what is or is not acceptable (Passas, 1990), we see it necessary to include both Durkheim and Merton's definitions of anomie. Durkheim's

work argues that anomie is the result of "lawlessness" (in translation) or normlessness (common interpretation) that is the result of a pathological society wherein the norms are unable to constrain individuals and as such new norms are adapted; however, they act to encourage unregulated aspirations and egoism ensues. Again, drawing from Durkheim's work on suicide, the concept of chronic economic anomie, the result of long term diminution of social regulation is relevant. In a Mertonian sense, anomie is the result of a high emphasis on the corporate goals with low emphasis placed on institutionalized norms to achieve these goals. We combine these definitions and view anomie as a condition of the larger environment wherein a great emphasis is placed on corporate goals, but there is a lack of regulation and standardized norms that guide the goal achievement. Further, with the increased propensity to use PMCs without external and often internal regulation, anomic conditions are heightened.

While much attention has been paid to organizational context and decision-making processes by scholars of state-corporate crime, there is a similarly rich criminological tradition which examines how social forces work within communities that are disorganized to produce criminal actions and actors (Rothe & Mullins, 2009). This also seems pertinent to understanding the criminogenic conditions associated with PMCs. After all, the influence of social disorder within immediate environments has powerful criminogenic effects (Rothe & Mullins, 2009). European and American criminologists have established that these disorganized environments have a pronounced tendency to produce criminal enterprises of varying levels of organizations (Mullins & Rothe, 2008a; Rothe & Mullins, 2006, 2008). Social disorganization theory (Bursik & Grasmick, 1993; Shaw & McKay, 1942) suggests that when communities possess a diminished capacity to create and enact informal mechanisms of social control, crime rates increase. Rothe and Mullins have noted that widespread social disorganization is most readily apparent in producing militias. Abject poverty, a lack of functioning infrastructure, and social institutions severely undercut by decolonization creates a profound vacuum of social order. These illicit organizations arise in such contexts to structure life and provide opportunities for community members to realize meaningful social identities.

We see social disorganization as directly related to the lack of regulation or anomic conditions. In the absence of legitimate forms of social regulation, disorganization proliferates. Military organizations, or in the case at hand PMCs, are generally operating in such an environment. Their immediate goal accomplishment mechanisms are innately violent and thus prone toward producing additional atrocity when unchecked and constrained. Even corporate social disorganization can undermine or hinder the extant informal social controls within a corporation, thus allowing high rates of criminal activity to occur. In addition, as most PMCs operate in areas of conflict or under tumultuous conditions they are even more prone to experiencing the chaos that is a result of the disorganization and indirectly a result of the larger anomic conditions guiding their actions. For our purposes here, we consider the environment from which PMCs operate in as an example of criminal groups which arise out of or in response to social disorder

and anomic conditions, lack of regulation. We suggest that these factors (i.e., anomie and social disorganization) are central to understanding PMC's criminal propensity. Additionally, due to the environment within which they operate they are uniquely situated, making generalizations difficult to translate to other corporate organizations. Thus, attention must be paid theoretically to the dynamics and processes that are at work *within* and *surrounding* these organizations.

Rothe and Mullins (2009) provided a causal logic model that attempts to draw out the dynamics and processes at work external to individual decision-making. To explicate the causal relationship among the catalysts discussed above, Rothe and Mullins draw upon the idea of nodes of interconnection (Tittle, 1995). Following Control Balance Theory, they proposed that the various elements of theoretical significance examined above come to influence social structure and behavior through points of intersection (e.g., the boxes numbered 1-4 in Figure 2).

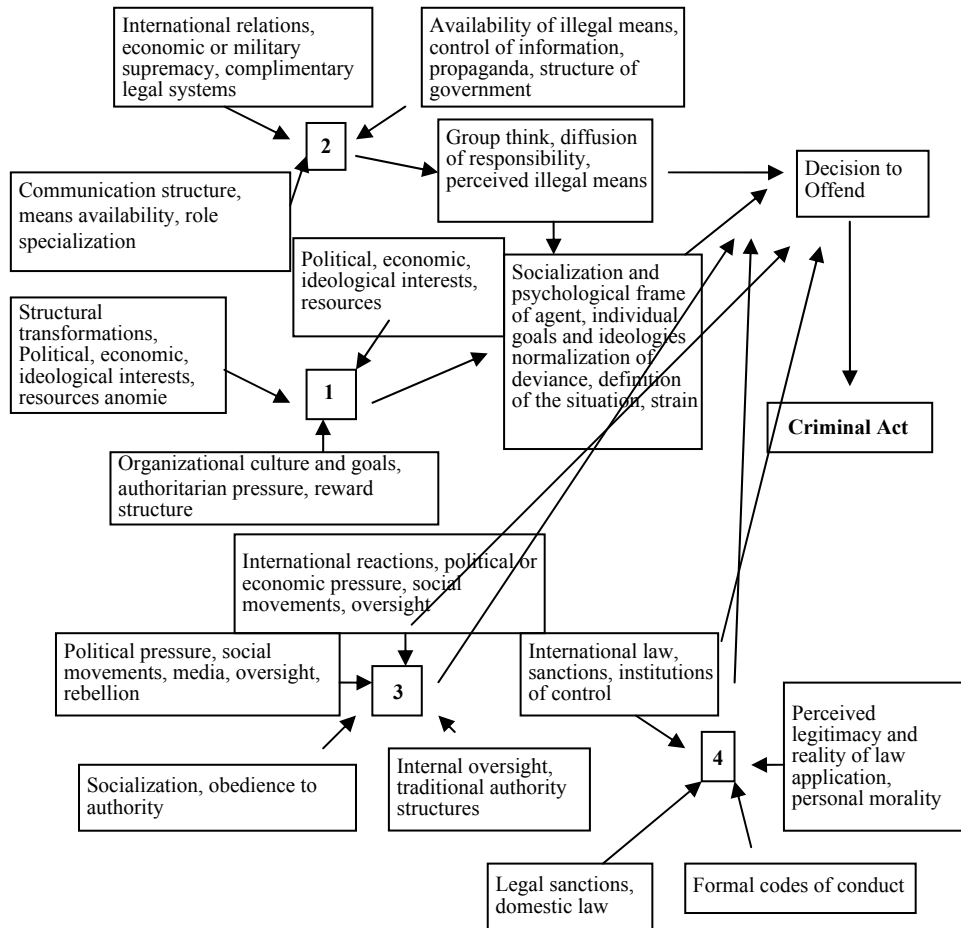


Figure 2 Causal logic model with relevant theoretical variables. Nodes: (1) Motivation, (2) Opportunity, (3) Constraints, and (4) Controls.

Crimes have multi-level causes and, in many cases, the social actor is a member of an organization; nonetheless, the specific criminal action is still individualized in its commission after, albeit bounded, a decision. Thus, one should examine the aggregate effects of a catalyst at the different levels of analysis above the micro-level as they come together to create a social force that works to affect the decision-making process of whether or not to offend—the decision-making moment. While it is possible, for example, to identify motivational forces at all four levels of analysis, functionally they all produce or enhance the motivation within individuals (Mullins & Rothe, 2008a). The opportunity point of intersection represents combined forces that govern the presentation or perception of opportunities to engage in violations of international criminal law. As constraints (and controls) tend to exist externally of individuals, Rothe and Mullins (2009) view all four levels of analysis combining in effect to create singular constraint and control intersections. While constraints and controls either block offending behavior or at least reduce or alter enactment patterns, they do not necessarily reduce motivational factors.

Rothe and Mullins' causal logic model not only incorporates the different variables, but also recognizes the intersections between them and their influence on individual decision-making. Within this model, however, anomie is listed along with several other factors, combining into one node at the motivational state (anomie). This does not allow us to explore the potential strength of anomie as a separate facilitating factor. Additionally, social disorganization, as another important concept is neither included in the integrated nor the causal model. In order to accommodate for this, we include Figure 3 which depicts suggested pathways showing the potential directional and predictive relationships between anomie and social disorganization to these other variables listed as nodes for each catalyst and level of analysis.

We recognize that the interplay within the various levels of motivation and opportunity as well as the interactions between motivation and opportunity at the various levels are important in an overall analysis of a phenomenon of PMCs. However, here we are concerned with the relevance of anomie and social disorganization to these other factors. As outlined, the model (Figure 3) suggests testing each component of the nodes for direction and strength then adding the operationalized measures for social disorganization and anomie to see what strengths and/or directions was changed, thus, providing some testable measure of the futility of using them as separate measures.

Criminogenic Conditions Leading to Propensity for Criminal Behavior

The integrated theoretical model discussed here (see Figure 1) does indeed explain much in the line of corporate criminal behavior, including that of PMCs. Motivational drives are related to profit making at the organizational and interactional levels. After all, whether we are discussing PMCs or other for profit corporations (e.g., General Electric, Imperial Foods, or ValuJet) economic inter-

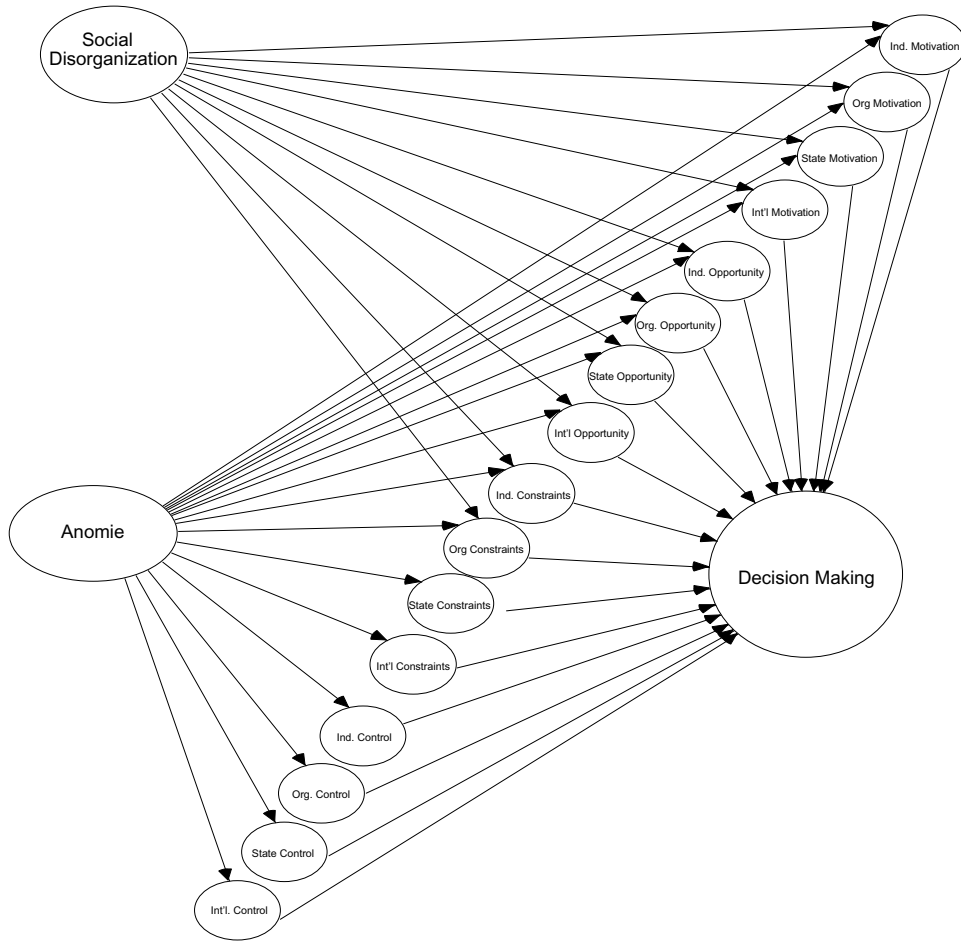


Figure 3 Pathway model. Nodes: From bottom of scale to top—*Controls*: international, state, organizational, and interactional level; *Constraints*: international, state, organizational, and interactional level; *Opportunity*: international, state, organizational, and interactional level; and *Motivation*: international, state, organizational, and interactional level. *Note.* Social Disorganization is not expected to act upon state and international level constraints or formal controls.

ests and a host of common organizational structures can be drawn out. Organizational goals weigh in on mission accomplishments; after all, failed delivery of services would significantly reduce future contracts. Successful contract delivery also lends to reward structures. Additionally anomie and strain have had explanatory powers where corporate goals are blocked, agents experience strain in goal accomplishment and seek illegitimate means to accomplish organizational goals. Opportunity structures include the control of information, role specialization, and availability of illegal means. Additionally, constraints can include media exposure and/or political pressures. Formal controls, laws, and regulations exist for most corporate entities, though enforcement is another issue.

As these variables have been identified and applied to explain many case studies of state-corporate and corporate crime, we do not discount their validity. However, we suggest while these factors have explanatory powers, in the case of PMCs anomie is often underscored in the analysis and/or applied in a Mertonian sense. Additionally, while social disorganization has been used to explain the emergence and presence of militias in regions where colonial holdings had destroyed traditional community structures (Rothe & Mullins, 2008), other applications of the model have not been used to draw out criminogenic environments.

Simply, while the integrated theory has been used to explain corporate criminality, we believe that it is not sufficient to highlight the uniqueness and propensity of PMCs criminality. Unlike other for profit organizations, PMCs are often contracted to carry out covert activities which include violations of legal codes and they are often operating in theaters of conflict, chaos, and disorganization. To incorporate these conditions within an analysis, we see a need to consider the primacy that anomie-lack of regulation, and social disorganization play in the environment which PMCs operate in. The following section draws out the relevance of using these theoretical concepts as primary explanatory factors.

Socially Disorganized Environments

PMCs often operate within a disorganized environment. This not only includes the community level, but the state and organizational ones as well. After all, war-torn areas are by definition disorganized. The disorganized environment can be the result of the conflict they are involved in, the incongruence associated with intermingling private military with formal military command structures, or the result of a blanket level of disorganization within the corporation or "unit" that is dispatched. For example, a relatively recent court case (January 2005) involving the deaths of four Blackwater employees in Fallujah (Iraq) speaks of the disorganized environment and corporate structure that led to their "wrongful" deaths. According to the complainants, Blackwater intentionally failed to provide the contractors "with the promised levels of protection and information needed, such as armored vehicles, sufficient advance notice of the mission, and sufficient personnel to have a rear-gunner to discourage attacks." They were instead forced to carry out a mission that was disorganized and without the proper support that had been guaranteed in the original contract. This appears to be a rather common reoccurrence.

Disorganized environments are also created when high rates of turnover are persistent in a corporation. As noted by a Blackwater employee: "Blackwater is like a fucking restaurant. You've got hundreds of people coming through" (Pelton, 2007, p. 72). We see a similar pattern of disorganization that surrounded the contractors from CACI and Titan that led to the use of torture in interrogations and security. The command structure at Abu Ghraib, for example, was highly flawed especially given the lack of accountability or knowledge of exactly what the PMCs were doing and their role within the prison walls. There was not

only an atmosphere of ambiguity for standards to be used for the PMCs roles, but there was a general level of disorganization at the prison including lack of sufficient personnel, intermixing of roles, the interjection of Central Intelligence Agency (CIA) and other special operating forces (Rothe, 2006a). With a lack of formal support systems, contractors were left on their own. While plausible deniability is created by the state hiring the contractors; it typically leaves them in an anomic and often disorganized atmosphere (Rothe, 2006a, 2006b).

Within conflict situations the context is even further disorganized and chaotic which can create the propensity for individuals to make up their own rules and try to create organization and support, especially given that most PMCs remain isolated and disorganized in the theater of operations. At times, PMCs run vehicles off the road or fire rounds into any car that gets close to their convoy. As noted by one military press officer, the conditions are like "something out of *Mad Max*" [the 1980 Australian movie starring Mel Gibson] (Pelton, 2007, p. 44). Similarly, Al Clark⁹ noted:

[W]e get upset about a fender-bender. you've got to get over that ... your car can be a 3,000 pound weapon when you need it. Hit and run. Trust me. The police aren't coming to your home because you left the scene of an accident. (2006, p. 72)

Approximately 11% of the reports made on the random and unprovoked firing of civilian vehicles involved PMCs in Iraq alone. Other PMCs take great pride in using "non-standard ammunition" to kill the targets they have been hired to control (Scahill, 2007). As Robert Fisk wrote:

[t]he power of the mercenaries has been growing ... thugs with guns now push and punch Iraqis who get in their way ... Baghdad is alive with mysterious Westerners draped with hardware, shouting, and abusing Iraqis in the street, drinking heavily in the city's poor hotels. (2004, p. 158)

PMCs operating in high intensity conflicts (i.e., the Democratic Republic of the Congo) find themselves in a highly disorganized environment often negotiating between paramilitaries, their employer, and the foot soldiers they have hired. In such environments the choice to partake in attaining additional profits or loot becomes much easier than in a situation wherein there is a stable environment. We are not excusing the illegal choices made by contractors, merely trying to elucidate the conditions from which they operate.

Not only are conditions of deployment in socially disorganized areas, but PMCs are also finding themselves in environments where they have no social support. As noted by Priest and Flaherty (2004, p. 1): "Under assault by insurgents and unable to rely on US and coalition troops for intelligence or help under duress, private security firms in Iraq have begun to band together ... with its own rescue teams and pooled, sensitive intelligence." Col. Jill Morgenthaler, spokeswoman for the US military command headquarters in Baghdad, agreed with Priest and Flaherty's statement: "There is no formal arrangement....However, ad hoc

9. Quoted in Scahill (2007).

relationships are in place so that contractors can learn of dangerous areas or situations.” This lack of social support is also evidenced with the case of the contractors with the London-based Hart Group Ltd.: “We were holding out, hoping to get direct military support that never came,” said Nick Edmunds, Iraq coordinator for Hart, whose employees were operating in an area under Ukrainian military control. Other sources said:

Hart employees called US and Ukrainian military forces so many times during the siege that the battery on their mobile phone ran out that same night, armed employees of two other firms, Control Risk Group and Triple Canopy, were also surrounded and attacked and ... in all three instances, US and coalition military forces were called for help but did not respond. (Priest & Flaherty, 2004, p. 2)

Beyond the concept of social disorganization, we believe anomic conditions are core in creating the criminogenic environment from which PMCs operate. The following section draws this out further along with a discussion of the lack of regulation facilitating these anomic conditions.

Anomic Conditions

At the forefront of anomie then is the lack of regulation. These controls are both internal and external (Ross, 1995/2000a, 2000; Ross & Rothe, 2008; Rothe & Mullins, 2006, 2008, 2009). Internal constraints are associated with the larger mission or goal of the organization and its capacity to carry out proper operating procedures. External regulations are meant to monitor the organizations activities and to ensure rules and laws are being adhered to. We see this as a key component of the criminogenic atmosphere that PMCs operate within. Further, we suggest that this lack of regulation encourages criminal behavior at the individual decision-making level as there is little to no individual accountability. As Tombs and Whyte (2003, p. 220) state, accountability is stymied through the use of private contractors by absorbing the “‘corporate veil,’ ‘commercial confidentiality’ and the inapplicability of Freedom of Information legislation¹⁰ into their security activities.” Conversely, PMCs operate in an ambiguous legal status in theaters of conflict (Jamieson & McEvoy, 2005). After all, PMCs and their employees are not subject to the same rules of engagement as the military, if they operate under any rules at all (Rothe, 2006a). Further, PMCs can “become very nomadic in order to evade nationally applied legislation which they regard as inappropriate or excessive” (Sandline, 1998, p. 1). As Rothe (2006a) noted, the Pentagon used PMCs to interrogate prisoners in Afghanistan and Iraq to obscure its aggressive practices from congressional oversight and without any consistent or systematic guidelines for conduct: high ranking officials in JAG “believed that there was a conscious effort to create an atmosphere of ambiguity, of having people involved who couldn’t be held to account” (Chaffin, 2004, p. 1). As lack of regulation is core to anomic conditions, it seems appropriate to define the problematic nature of controls for PMCs.

10. PMC contracts are not subject to Freedom of Information Act requests.

Lack of regulation: controls

Without accountability, PMCs have been able to commit crimes and reinforce conflicts as has been the case in the Balkans, Sierra Leone, Liberia, and the Democratic Republic of the Congo. They have been provided impunity as was the case in Iraq by Order 17 issued by the Administrator of the Coalition Provisional Authority on 27 June 2004, and in Colombia where abuses committed by US military personnel and private contractors working under Plan Colombia can neither be investigated nor judged. Beyond traditional corporate activities, it is said that the privatization of the military force makes them "only subject to the laws of the market" (Singer, 2003, p. 220). Private military forces (PMFs) and private logistical support teams amplify the concept of "loopholes" because they involve minimal oversight, no transparency, and no standing international criminal laws to regulate them (Michalowski & Kramer, 1987). Without some form of control, they are relatively free to behave as they see fit in the environments within which they operate.

It is often unclear how, when, where, and which authorities are responsible for investigating, prosecuting, and punishing such crimes (Ross, 1995/2000a, 2000b). Unlike soldiers, who are accountable under their country's military code of justice wherever they are located, contractors have a murky legal status; undefined by international law. While there are two documents that restrict mercenary activities, the *Additional Protocols to the Geneva Conventions* of 12 August 1949 (Protocol I and II) and the *International Convention against the Recruitment, Use, Financing, and Training of Mercenaries* (UN Mercenary Convention) these generally do not apply to PMCs or their employees.¹¹ Especially given the case of restrictions included in the definition of who is a mercenary and the requirement of motivation.

Although private military firms and their employees are now integral parts of many military operations, they tend to fall through the cracks of current legal codes, which distinguish civilians from soldiers. Contractors are not quite

11. Protocol I is essentially meant to discourage mercenary activity by withdrawing eligibility for prisoner of war status but does not criminalize the behavior. Moreover, the definition of "mercenary" excludes military trainers, advisors, and support staff, thereby omitting most PMC activities. The UN Mercenary Convention defines a Mercenary as any person who: (a) Is specially recruited locally or abroad in order to fight in an armed conflict; (b) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party; (c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict; (d) Is not a member of the armed forces of a party to the conflict; and (e) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces. A mercenary is also any person who, in any other situation: (a) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at: (i) Overthrowing a Government or otherwise undermining the constitutional order of a State; or (ii) Undermining the territorial integrity of a State; (b) Is motivated to take part therein essentially by the desire for significant private gain and is prompted by the promise or payment of material compensation; (c) Is neither a national nor a resident of the State against which such an act is directed; (d) Has not been sent by a State on official duty; and (e) Is not a member of the armed forces of the State on whose territory the act is undertaken.

civilians, given that they often carry and use weapons, interrogate prisoners, and fulfill other critical military roles. Yet they are not quite soldiers, either. Normally a civilian's crimes fall under the jurisdiction of the country where they are committed. But PMCs typically operate in weakened or illegitimate states or have the resources to frustrate employee scrutiny. Prosecuting their crimes locally can thus be difficult. Moreover, while some countries have laws governing PMCs, they often lack the means to enforce them (e.g., South Africa), others have certain aspects of laws, but are incomplete or contain large gaps in them, while others create laws to regulate which essentially provide additional and legitimate venues for their activities so not to miss out on the state-corporate profitable alliance (Whyte, 2003). Individual contractors are civilians and thus not part of the military chain of command. "Even more difficult to answer is how a business organization and its chain of command as an organizational entity can be held accountable" under military authority and code (Schreier & Caparini, 2005, p. 67).

There are also examples where local prosecutions are purposefully blocked. For example, in Iraq procedures were taken by Paul Bremer, then head of the provisional government, to ensure immunity from Iraqi prosecution for private contractors and agents working under the auspices of other governmental agencies (OGA) or Special Forces (SAP) forces. In June 2003, Bremer, through the Coalition Provisional Authority (CPA) handed down Memorandum 17, granting foreign contractor's immunity from Iraqi law. The memo also put private contractors under the legal authority of their domestic national laws. In June 2004, Bremer signed a revised version of Memorandum 17, stipulating that the rule governing contractor's immunity remain in effect until forces are withdrawn from Iraq. The Order grants immunity from "local criminal, civil and administrative jurisdiction and from any form of arrest or detention other than by persons acting on behalf of their parent states" (Memorandum 17, 2004, p. 3). While legal controls are said to exist for these contractors within US domestic laws, they are only bound when contracted by the DOD but most are not. However, US contractors are subject to the Military Extraterritorial Jurisdiction Act (MEJA), signed by President Bill Clinton in October 2000, which allows for the prosecution of civilians employed by or accompanying the military while overseas. Nonetheless, MEJA specifically states that it pertains only to contractors employed by the DOD.

Consequently, many of the civilian employees escaped US and Iraq domestic accountability because of the blanket immunity in Iraq and they were contracted under the Department of Interior (DOI), which provides another loophole whereby civilian contractors are not covered by US law. This was the case with Titan and CACI, both operating under contracts from the DOI (Rothe, 2006a). Nonetheless, if corporations are under contract to the Pentagon they are required to follow a set of rules known as the Defense Acquisition Regulation Supplement (DFARS) that contains a section on "Contractor Standards of Conduct" covering proper behavior. DFARS was amended on 6 June 2005, to hold US contractors deployed overseas accountable under US and international

laws as well as those of the host country. This, however, had little effect since immunity was granted from Iraqi law and international law fails to govern international corporations.

Similarly, in the past there have been US regulations for utilizing a corporate entity for military purposes (typically logistical contracts). For example, during the Clinton Administration, requirements for contractors bidding on state contracts were strengthened (#66 FR 80255). New "blacklisting" protocols barred contractors from future contracts if they had past labor, environmental, or violations of federal trade laws lodged against them. However, on 1 April 2001, the Bush Administration revoked this regulation (#65 FR 80255) with #66 FR 17754, which put into effect a revocation of #65 FR 80255. Thus, the tightening of regulations put forth by the Clinton Administration was relaxed. As such, the doors to additional contracts were widely opened incorporating corporations that once would have been "illegal" to hire. This change made it possible for Halliburton to obtain contracts regardless of previous or current allegations of illegal practices (White House Documents 2004; Federal Register 2001).

Several US Congressional initiatives were taken to ensure these state-private contracts were receiving some form of monitoring. They included an amendment to the *Iraq Appropriations Bill* that would have criminalized war profiteering and required ongoing audits for submitted bills by the GAO for contracts over 25 million dollars. These, however, were derailed by the George W. Bush Administration (2001-08). This further ensured an anomic atmosphere and crimogenic tendencies by providing unlimited opportunities for corporations to partake in war profiteering.

In the case of Halliburton and other logistical contractors, domestic controls were further weakened with the decrease in the numbers of regulators responsible for oversight of the private contracts. For example, the personnel for the US Defense Department's accounting and budget fell from 17,504 to 6,432. At the same time the numbers employed by the Defense Contract Audit Agency of the Pentagon fell from 7,030 to 3,958. Thus, most state contracts (especially due to the recent surge of contracts pertaining to the war on terrorism) did not receive proper auditing or oversight. Then in September 2003, the Pentagon put forth a new strategy to bolster the weakened staff by outsourcing the oversight agency. The Pentagon awarded a 121 million dollar contract to a private contractor to oversee and regulate other private contractors. Some of these oversight agencies (e.g., Parsons Energy and the URS Group) also have Pentagon logistical support contracts. As US Congressman Waxman stated: "You could easily imagine one private contractor having other business dealings with the company over which they're supposed to be conducting oversight" (Waxman, 2004). In other words, it appears that the possibility for conflict of interest was present.

Meanwhile in 2001-02 the UK, commissioned a green paper written by the Rand Corporation entitled "Private Military Companies: Options for Regulation." As expected, based on the report, due to the contradiction between regulating an entity the government can use in endeavors to provide plausible deniability, the UK passed legislation that seemed to advocate the use of PMCs based on

Britain's economic competitiveness, to provide additional tools in foreign policy, and protection they would provide the British state from "legal accountability" (Whyte, 2003, pp. 586-594). On the other hand, and as a rare example, South Africa self-regulated and banned the use of PMCs (1998 *South African Regulation of Foreign Military Assistance Act*). The Act "includes extra-territorial application and punitive powers for those that do not abide by it. However, to date it has been enforced only to a limited degree and controversy has surrounded its practical application" (Geneva Centre for the Democratic Control of Armed Forces, 2008, p. 2)

At the international level, controls regulating PMCs are fewer and weaker than those in some of their home countries. In 1987, the UN created a Special Rapporteur who would be responsible for monitoring the use of mercenaries in conflict situations. Part of this work led the UN in 1989 to pass the *International Convention against the Recruitment, Use, Financing and Training of Mercenaries*. In 2005 the UN's Commission on Human Rights established a working group to monitor state compliance with the International Convention. Other agreements have been framed by the UN which compels transnational corporations to obey human rights laws. For example, the 2003 *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights* agreement expressly brings the behavior of corporations operating in multiple nations under the rubric of human rights laws. Drawing heavily upon the UN Charter, especially Articles 1, 2, 55, and 56, this agreement acknowledges that globally-active for profit corporations are major players in the international arena.

Nonetheless, there are difficulties in applying international law to PMCs. While the personnel are individually liable under international public law, they remain symbolic, or a theoretical position due to realpolitik. Additionally, there are restrictions to these laws that require more than a few random acts to be considered applicable for international institutions of control to intervene as well as the obligatory nature of states' rights to first prosecute their own. Moreover, the corporations themselves do not fall within many aspects of international law. Thus, "the most appropriate means for holding PMFs accountable is by making their home government responsible for their activities" (Geneva Centre for the Democratic Control of Armed Forces, 2008, p. 2). It has been the internationally held expectation that states are the key players responsible for the maintenance and enforcement of human rights standards. It goes without saying that there is an overall lack of agreement for regulation at state (e.g., UK green paper) and at the international level (standardized definition and laws). These combined factors facilitate the anomic condition within which they operate.

Conclusion

The criminal actions of private military companies in Angola, Congo, and Sierra Leone, the failed coup attempt in Equatorial Guinea, the numerous cases of

contractors' crimes in Afghanistan and Iraq, and the increasingly familiar news reports of murder, fraud, and war-profiteering underscore the criminogenic nature of these firms. We have suggested that an analysis of the factors that facilitate the propensity toward criminal activities must include a deeper and broader examination of the anomic environment wherein there is a lack of accountability and controls and theaters of operation that are socially disorganized (internally and externally)—including the lack of support systems as primary explanatory variables. We are not arguing that other factors presented in the integrated theory of international criminal law by Rothe and Mullins (2006, 2008, 2009) or those highlighted in Ross' (1995/2000a, 2000) research are irrelevant, our point here is that for these types of organizations, the role of anomie and social disorganization have a high explanatory power. These factors not only point to the organization's propensity toward criminal activity, but also highlight the uniqueness of the environment within which PMCs operate. As such, our goal has been in theory refinement and building rather than applying the model to a specific case of PMC criminality.

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Appendix

Methods

Our approach is grounded in an inductive analysis with the goal to generate and refine theory rather than produce specific findings. Qualitative methods for data collection and analysis are powerful, particularly when used to refine existing theories (Yin, 1984). Additionally, from our previous research and the extant body of case studies of state-corporate crimes, we began to notice that previously undocumented theoretical concepts were missing. By comparing existing literature or case studies of organizational criminality and PMCs we were able to identify gaps—thus providing new insights to factors at work. Such an approach is well-recognized in qualitative research. We draw from primary and secondary data. Primary data include the extant body of regulatory law for PMCs, UN reports, military codes, and corporate reports. Secondary data include not only our previous research and case studies of organizational crime and theoretical development, but also the extant body of case studies on corporate and state-corporate crime, non-governmental organizations, autobiographies, and journalist accounts.

Additionally, the integrated theory drawn from has already been established and tested to some extent (e.g., Kramer & Michalowski, 2005, 2006; Kramer, Michalowski, & Rothe, 2005; Lenning & Brightman, 2009; Michalowski & Kramer, 2006b; Mullins & Rothe, 2007, 2008a, 2008b; Rothe & Mullins, 2007, 2008), as such, the inductive approach, within-case analysis and cross-case comparison of cases that do not wholly fit or have additional variables at work can refine theory by identifying new variables or a new causal path to it. Indeed, one of the most important contributions of within case analysis, comparative and a cross-case approach has been to identify causal variables that have been left out of earlier analyses. As case study researchers, analyzing and theorizing on these undocumented causal mechanisms is a priority. This theoretical building-block process can outline an increasingly comprehensive framework for understanding organizational criminality given the on-going process of theory development, it is appropriate to regard this research method as achieving an accumulation of findings that can provide a new component in theory refinement.