Transforming the European State Monopoly on the Use of Force: Horizontal and Vertical Dynamics

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SUMMARY

- European state monopolies on the legitimate use of force are undergoing a process of profound transformation.
- A first trend is the increasing vertical integration of state monopolies on the use of force in Europe. The rapid evolution of the European Union's internal and external security institutions is an example of this trend towards intergovernmental cooperation and in some instances even supranational integration in the field of security.
- A second, horizontal, trend points to the emergence of converging and frequently overlapping forms of security governance at the interface between internal and external security provision in Europe. In particular the external deployment of domestic police services has progressed rapidly in recent years.

INTRODUCTION: TRAJECTORIES OF TRANSFORMATION

Twenty-five years after the end of the Cold War, European state monopolies on the legitimate use of force are undergoing a process of profound transformation. New threat perceptions and security discourses have displaced classical, state-centric understandings of security that had previously separated the internal and external security fields. Even a cursory look at security strategies and concept papers across Europe highlights the emergence of a new security discourse in which the internal and external dimensions of security have become inextricably linked and where the new European security environment is often characterized as fluid, complex and interdependent. Those issues that take pride of place in many European security strategies today – terrorism, organized crime, state fragility, the proliferation of weapons of mass destruction, the spread of infectious diseases – are difficult to classify as either domestic or external security challenges. However, this fusion of internal and external security threats is only one piece of the larger puzzle of security governance transformations under way in Europe. Also at a more general level, answers to the question of what security is and how it should be provided have become both highly contested and expansive. The resulting new threat and risk perceptions confound established forms of conventional security provision. Geared primarily towards defence against conventional threats and challenges, the design of traditional security institutions in Europe increasingly clashes with the new rhetoric concerning a »new security environment«. In response, »comprehensiveness« in the management of new security challenges has become a key theme in national and European strategy papers and in the work of international organizations.

How have these new discourses about security and risk influenced the organization of the state monopoly on the legitimate use of force in Europe? One core aspect concerns the changing relationship between state and non-state actors in the security field: the commercialization of security, either through dynamics of top-down outsourcing and delegation or through bottom-up »hostile take-over« (see Wulf 2015), is of crucial importance to the future of the state monopoly on the use of force. Complementing this focus on the shifting relationships between state and non-state actors, this paper identifies two further trends in the transformation of the European state

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monopoly on the use of legitimate force.[1] The current transition towards new forms of security governance in Europe is characterized by both vertical and horizontal transformations of the established European security order. On the one hand, we see vertical shifts towards the internationalization and in some cases supranationalization of security governance; and towards the global diffusion and »export« of European ways of organizing a state's use of force. On the other hand, horizontal transformations point to an increase in transnational forms of security governance and to the convergence and at times »merging« of previously (more or less) distinct internal and external security fields and institutions in Europe. The paper deals with each trend in turn and concludes with an outline of three more general points of discussion.

VERTICAL INTEGRATION: INTERNATIONALIZING THE STATE MONOPOLY ON THE USE OF FORCE

International Dynamics and Supranational Integration in Europe

The first observable dynamic is an increasing trend towards the internationalization, and in some instances supranationalization, of the state monopoly on the use of force. This trend is characterized by global security dynamics that evolve in response to the perceived de-territorialization and transnationalization of many security challenges. In principle, the heart of »global« forms of security governance is still the UN system, in particular the UN Security Council that is mandated to uphold peace and international security. It is of course well known that the effectiveness of UN activities in the security field is frequently hindered by political conflicts, a lack of powers, and staff and budgetary shortfalls. One area that could nevertheless be interpreted as a move towards an »internationalization« of security provision is the emerging »responsibility to protect« norm. This holds the international community ultimately responsible for safeguarding the lives and livelihoods of people everywhere: "sovereignty no longer exclusively protects States from foreign interference; it is a charge of responsibility where States are accountable for the welfare of their people« (UN Secretary General 2009). As a result, RtoP mandates the international community to intervene in the domestic affairs of states that are manifestly failing to protect their populations, if necessary by military means. For example the deteriorating security situation in Libya marked a crucial step for the UN Security Council in the application of RtoP: Resolution 1973 sanctioned a no-fly zone for the protection of Libyan civilians and authorized the use of »all necessary measures« to protect civilians in the country. However, this trend towards the »internationalization« of security provision is still weakly institutionalized at the international level and has also been heavily criticized for its Western-centric power dynamics and perspective. It might therefore be prudent to avoid the term »global« security governance in favour of terminology that takes into account the manifold contradictions and asynchronies of today's globalization dynamics.

In parallel to attempts at creating and maintaining international security institutions, regional forms of security integration have progressed, in some cases rapidly. In particular the case of the European Union can be singled out as an example of unprecedented supranational integration of security provision. In the past decades, processes of de-nationalization and Europeanization have led to the vertical transfer of decision-making competences from the national to the European level. For the longest time, European integration had progressed in nearly all policy fields except for security cooperation. The past two decades have seen a remarkable reversal of this trend. The move towards vertical security integration during the first decades of the twenty-first century has resulted in the creation of European-wide internal and external security architectures at the EU level. With increasing regulative capacity flowing upwards from the national levels to the level of the European Union, the vertical integration of national security policies at the EU level has made rapid progress. In 1999, the Tampere European Council kick-started the development of the Union's internal security architecture. In 2001, the new European civilian and military capabilities were declared operational. By 2010, the EU had already deployed more than twenty civilian and military crisis management missions to several continents. In March 2015, EU Commission President Jean-Claude Juncker floated the idea of creating a joint EU army. Although this proposal is unlikely to be realized any time soon, it shows how far the discourse about European external security integration has come in the past decade. And despite the absence of fully integrated European armed forces, multinational forms of cooperation among different European armed forces have expanded in scope and number during the past decade. Eurocorps, established in 1992 as the »Franco-German Brigade«, was the first experiment with a multinational force in Europe. The Multinational Corps Northeast in 1999 and the 1 German/Netherlands Corps in 2002 extended the multinational integration of European armed forces into new geographical areas.

The establishment of the EU's security and defence architecture coincided with the creation of the EU's internal »Area of Freedom, Security and Justice«. Designed primarily to deal with security issues arising from the establishment of an area of free movement within the EU, internal security cooperation has

1 See Schroeder 2011 for an extended discussion of these trends.

moved even further away from its humble beginnings operating in »poorly co-ordinated intergovernmental groups« (Monar 2001, 748). Efforts at combating cross-border crime in the context of the Tampere, Hague and Stockholm Programmes culminated in an EU-wide internal security strategy in 2010. And after the Treaty of Lisbon came into force, EU-wide cooperation in the field of home affairs moved a crucial step closer to the Europeanization of the state's monopoly on security provision in the internal security field: further areas of internal security cooperation (for instance police and criminal justice cooperation) were communitarized and thus transferred to the Community method of cooperation. In short, fifteen years after the European Security and Defence Policy (ESDP) and the EU's Justice and Home Affairs (JHA) Policy were launched, security issues have become an integral part of the European Union's policies and capabilities. In essence, in particular in the internal security field we can speak of the Europeanization of formerly state-based mechanisms of security provision. In the case of external security cooperation, the EU has become a central node in the network of European security cooperation. Here, however, national interests and caveats still frequently dominate decision-making at the European level.

The International Spread of the European State Monopoly on the Use of Force

A second set of vertical dynamics concerning the European state monopoly on the legitimate use of force are attempts to spread the »Westphalian« model of statehood – and with it the Weberian state monopoly on the legitimate use of force – around the globe. Contrasting alternative trajectories of fragmentation and hybridization of political and security orders discussed for instance by Boege (2015) in this series of think pieces, this countervailing trend can be read as an attempt to (re-)establish a stable and integrated international order based on core principles of Westphalian statehood. Emanating from the »Global North«, the international spread of the specific norms, organizational structures and practices that make up the Weberian state monopoly on the use of force has led to the – at least partial and superficial – global diffusion of specific security governance scripts around the globe. Of course, the internationalization of European ways of waging war and using force is by no means a new phenomenon: the coercive imposition of political and security institutions by colonial rulers has had obvious negative repercussions in many regions of the world that are still felt today. At the same time, we also find voluntary imports of specific aspects of European rule, as for instance the case of Meiji Japan and its emulation of the French police model shows (see Westney 1987).

However, the more recent increases in attempts to »build states« and to counter the effects of state fragility worldwide also merit closer attention. Often part of liberal peace- and state-building projects (see for example Paris 2010), the internationalization and dissemination of the »Westphalian« model of statehood has gained speed in recent years. A first, crucial instance of expanding European/northern concepts of security and order to other countries has been the dual processes of European Union and NATO eastern enlargement. Here, membership in the two institutions required the adoption of the extensive European »acquis communitaire« and NATO membership criteria that include a set of political, economic and military goals. In both cases, aspiring member states needed to align their own political systems with EU/NATO models of governance. Both processes have resulted in far-reaching transformations of security sectors and political orders in the new eastern European member states in line with European and US governance models.

A second, broader dynamic concerns visible increases in international statebuilding activities in situations of fragility and after conflict. This trend perhaps most forcefully illustrates the persistence and global spread of »Westphalian« ideas about governance of the use of force. Part and parcel of larger state-building interventions, international efforts to strengthen or reconstruct effective and legitimate state monopolies on the use of force in situations of fragility have grown rapidly in relevance, number and scale in recent years. In a departure from classical security transfers that primarily focus on enhancing the effectiveness of security agencies, comprehensive »security sector reform« in essence aims to replicate a Westphalian state monopoly on the legitimate use of force in states in crisis or transition. Based on the goal to »meet the range of security needs within their societies in a manner consistent with democratic norms and sound principles of governance, transparency and the rule of law« (OECD 2005), these international interventions contain prescriptions about how and when to use force, since they include not only technical assistance, but also the parallel transfer of specific sets of norms and rules that govern the use of force in most OECD states. Cases that exemplify this broadened scope of international interventions include the UN interim administrations in Kosovo (UNMIK), Bosnia (UNMIBH) and Timor Leste (UNTAET/UNMIT), as well as the UN missions to Sierra Leone (UNAMSIL/UNIOSIL) and Haiti (MINUSTAH). In practice, these attempts at propagating international norms and practices in the security field have yielded very mixed results. While international interventions might succeed in diffusing the formal structures of European statehood and security provision

– for example in the form of police stations, ways of organizing the armed forces or specific organizational blueprints for a ministry – security practices in targeted societies might have very little to do with these formal institutions (see further Schroeder, Chappuis and Kocak 2014). Very much beyond the attempted »centrally orchestrated and controlled 'building' of a uniform system of maintenance of peace and order« (Boege 2015), the continuous »hybridization« of security practices is one result of external diffusion attempts.

Overall, the described international spread of a European/northern way of organizing the use of force in society has – unsurprisingly – not led to a global security order modelled on the Weberian model. Instead, these attempts have compounded the layered and fragmented security orders found in the often post-colonial areas of limited statehood found in many regions of the world. However, regardless of their practical use in – or even detrimental impact on – situations of fragility, the norms and institutions constituting European statehood and the European state's monopoly on the legitimate use of force continue to be part and parcel of international engagement in states emerging from conflict or crisis. Moreover, one cannot simplistically expect a unidirectional diffusion of Northern/European norms and institutions to the Global South: quite to the contrary, patterns of security governance in the Global South continue to feed back into the transformation of the state monopoly on the use of force in the North. Examples include the interlinkage between repressive British colonial policing practices and their subsequent re-import into policing at home. In a similar dynamic, the rapid militarization of US policing is partially a result of federal programmes turning over excess military equipment from the wars in Afghanistan or Iraq to local police departments over the past two decades.

HORIZONTAL INTEGRATION: TRANSBOUNDARY DYNAMICS IN THE EUROPEAN SECURITY FIELD

The Convergence of Internal and External Security in Europe

In addition to the described delegation of authority upwards to the supranational and international levels, a parallel dynamic concerns the horizontal transformation of the classical European state monopoly on the use of force. With many security issues traversing established institutional and political boundaries, in particular the boundaries between internal and external security have come under increased pressure to transform. Security strategies and concept papers across Europe have been quick to call for comprehensive and networked »whole of government« approaches to counter the arrival of complex and transboundary security challenges. However, the emergence of horizontal junctures between internal and external security confounds a core principle of the Westphalian model of statehood in Europe: the process of state formation in Europe had institutionalized a »great divide« (Clark 1999) between the domestic order of states and the external sphere of inter-state relations. This divide between international anarchy and domestic order has long been the commonly accepted underlying principle of inter-state relations. It presupposes the existence of fundamentally different paradigms for interaction in the international and domestic spheres. The enduring condition of anarchy and the resulting conflictual nature of relations in the international system of states are offset by concepts of order and stability within the sovereign state. The consolidation of the modern state's administrative control over its territory resulted in the gradual disarming of the population and the slow emergence of civilian police forces. As state governments consolidated their domestic hold over their territories, the military gradually withdrew from its direct control of the domestic sphere. Control over the state's domestic order gradually became detached from the direct coercive sanctions of the armed forces, which became a relatively remote backup to the internal hegemony of civil authorities in Europe (Giddens 1985, 6, 113). The sphere of violence and coercion within the state in Europe had – over time – become restricted to as small a segment as possible, as Elias argued in *The Civilizing Process*. As a consequence of this evolution, two functionally different types of security organization emerged: law enforcement and military forces gradually developed as two separate organizational entities with distinct areas of competence. Over time, internal and external security actors developed different sets of capabilities, organizational structures and logics of action: the domestic law enforcement services were demilitarized and started to concentrate exclusively on fighting domestic crime and on the prevention of danger to their constituencies. The armed forces, on the other hand, turned outwards and developed into highly hierarchical organizations designed to fight and win inter-state wars. The professionalization of both armed and police forces during the consolidation of the European states' rule in the long run cemented the divide between the organizational structures and institutional fields of the internal and external security services.

In response to the new post-Cold War security agenda, this traditional configuration of the European security field has started to transform: several parallel trajectories of transformation have led to the emergence of layered or overlapping forms of security governance at the interface between internal and external security. Sometimes described as the »merging of internal and external security« (see for example Bigo 2000), this

transformative dynamic in fact incorporates several – often conflicting – processes of convergence between formerly separate security fields and institutions. We can identify two core dynamics that have led to the convergence of, and sometimes conflict between, the internal and external security fields in Europe: in a process of convergence from both sides, the tasks and roles of security services in the internal and external security domains have expanded in parallel. While military forces have increasingly incorporated »domestic« security tasks into their repertoire, internal security services have both externalized and internationalized police work across and outside the EU's internal borders.

The Externalization of internal security

The expanding reach or »externalization« of domestic police forces into the European and international spheres has progressed rapidly in recent years. Police services increasingly deploy abroad or liaise across borders. In international statebuilding operations, the deployment of police officers has started to play an ever larger role, and police practitioners form an increasingly large part of international crisis management, peacebuilding and state reconstruction efforts. International policing activities have in effect grown exponentially, with police participation in international peacebuilding increasing »by almost 900 percent during the last fifteen years« (Tanner and Dupont 2014, 3). This rise in international police deployments demonstrates that internal security concerns have become crucial aspects of international peace- and statebuilding operations, with support for the internal security services of fragile states rapidly moving to the top of the international statebuilding agenda: police officers are deployed abroad to fill robust policing roles in states emerging from conflict, to assist in stemming the spread of transnational organized crime and terrorism, and to mentor and train the police forces of fragile states. In short, recent years have seen the establishment of a veritable »international police-reform industry« (Hills 2008, 220).

A second development similarly highlights the increasing presence of domestic police forces abroad: national police services have started to cooperate across state boundaries. In a move that has been described as a step towards »global policing« (Bowling and Sheptycki 2012), domestic police services have become »more closely linked transnationally« (ibid., 5) to counter organized crime, terrorism and other security risks that transcend national borders. International liaison networks, personnel exchanges, foreign training and technical assistance programs, joint operations, and intelligence-sharing arrangements are all part of the new transnational policing arrangements (see further Goldsmith and Sheptycki 2007, 11–15). And although transnational police cooperation is not a new phenomenon, its current forms and reach are regarded as unprecedented (Andreas and Nadelmann 2006, chapter 5). In the European Union, this trend has manifested itself not only in the expanding cooperation mechanisms between different domestic internal security agencies across the Union's common borders, but also in the extension of European internal security policies outside of the Union. The »external dimension« of EU policies in the area of justice, freedom and security has been inscribed in the EU's neighbourhood policy, its internal security strategy and its visa, migration and border control policies.

The expansion of military roles

In parallel to the double expansion of member states' internal security policies to the European level and beyond, military roles have also undergone a process of transformation. In Europe, the armed forces have both extended and redefined their previous roles. In particular the expansion of military forces' tasks to include a series of crime-fighting and humanitarian roles has led some observers to detect a »policization« of military force (see Andreas and Price 2001). While military assistance to civilian law enforcement agencies in the fields of disaster relief, crime-fighting and civil unrest is nothing new in itself (see Northern Ireland, the US war on drugs etc.), the trend of using military forces to assist domestic security agencies has accelerated since the terrorist attacks of 9/11, 2001, in New York and 3/11, 2004, in Madrid. In Europe, several countries routinely deploy military force in domestic settings. Examples include the use of the French army in internal counter-terrorism measures in the Plan Vigipirate framework, the deployment of Italian soldiers to maintain public safety in Italy, and the deployment of military personnel to secure the Olympic Games in London in 2012 – after the failure of a private security firm to fulfill its contract.

In addition to this use of the military in domestic support functions, the military has also widened its roles in external deployments. In many post-conflict contexts, the ability of domestic security services to maintain law and order is heavily curtailed. The provision of public security in settings where the established security forces of the state are either dysfunctional or disbanded has therefore been a major challenge for international crisis management operations. In a variety of post-conflict interventions, external military forces have effectively been the only force capable of filling domestic security gaps left by weak or unwilling domestic police forces and by the late or reluctant deployment of international civilian police forces. Moreover, since most civilian police forces are not trained for the intensity of domestic unrest and riot control encountered in this context, military

forces may be called upon to take over of duties in the grey zone between policing and military patrolling (see Hansen 2002, 75f.). In these situations the military has to perform functions that go beyond the generic military task of providing a safe environment in a specific region or state. Working alongside increasing numbers of civilian actors, armed forces have in addition assisted in providing humanitarian assistance and in shielding civilian actors from harm. As a result, the roles of military and police forces in the provision of public security in volatile post-conflict situations have started to overlap. In this context, in particular those domestic intermediate forces that had long been seen as anachronistic force types, the gendarmerie-type police forces found in a number European states, have become increasingly relevant. With their dual affiliation to defence and interior ministries, their centralized and hierarchical style of organization and, compared to civilian police, heavy equipment (Lutterbeck 2004, 47), some observers find that paramilitary forces are perfectly prepared to tackle the specific situations of post-conflict environments. Yet, the expansion of robust and paramilitary policing has not been met with unreserved enthusiasm. The export of paramilitary forces to post-conflict societies can be problematic since it is often precisely the blurring of responsibilities between police and military in war-torn societies that lies at the heart of the problem of the security sector in question. Thus, it may »seem paradoxical that militarized police forces are increasingly resorted to in this context« (ibid., 62).

Towards Transnational Security Governance?

A related horizontal dynamic concerns the transnationalization of how security is provided in Europe. A corollary of the described vertical trends towards supranational and international cooperation in security matters, policy-making in the security field increasingly takes place in horizontal and transnational processes of decision-making. In contrast to the hierarchical models of decision-making used by national governments, the new transboundary forms of security cooperation often rely on mechanisms of non-hierarchical coordination in the absence of authoritative decision-making competences. Frequently organized as informal networks that enable negotiations and cooperation across national boundaries, transnational forms of security governance have become particularly relevant in the field of policing. While some authors have started to use the concept of »global policing« – in the sense of the »capacity to use coercive and surveillant powers around the world in ways that pass right through national boundaries« (Bowling and Sheptycki 2012, 8) – the empirical reality reflects a complex mesh of different transnational networks and cooperation mechanisms with diverging reach and scope. Crucial ingredients of transnational policing in Europe are the establishment of international police liaison officers (see Bigo 1996, Nadelmann 1993), transnational police operations across the European Union's common borders, as well as transnational informal networks in the field of police cooperation. While international police liaisons have for a long time represented their governments in staff exchanges with the law enforcement services of other EU member states, the instrument of enhanced police cooperation across the EU's internal borders has only more recently been integrated into the EU's legal framework. Responding to the Schengen area's system of free movement, cross-border police cooperation in the European Union now includes rights of cross-border surveillance, joint patrols and hot pursuit. At the same time, law enforcement databases share fingerprints, DNA records and motor vehicle data among EU members and a whole series of joint police and customs cooperation centers have opened at the EU's internal borders. In particular in the fields of organized crime and counter-terrorism, transnational operational police cooperation has made large advances in recent years. Finally, transnational networks in the field of police cooperation have also gained in relevance. What Slaughter (2004) described as »governance through a complex global web of government networks« has long been a relevant influence on European internal security cooperation. Informal fora such as the Club de Berne – for intelligence cooperation – or the Police Working Group on Terrorism have expanded into crucial information and exchange networks that have no formal role in the EU's formal institutional structure.

This evolution of transnational security governance in Europe has been critically assessed by a series of studies, for example by the »Paris« school of critical security research (see for instance Bigo 1996, 2000, 2007). Arguing that European security professionals have been instrumental in establishing an overarching European »security continuum« of risks, the merging of internal and external security discourses and practices is here understood to be a corollary of the active construction of new risk discourses by European security professionals (Bigo 2000, 173). A second challenge of the described transnational forms of security cooperation are issues of legitimacy and accountability that arise in these contexts. Here, in particular the potentially anti-democratic effects of the ongoing transformations in the provision of security raise concerns. The described use of informal coordination mechanisms in the field of internal security poses obvious problems: informalization »concomitantly decreases the degree of transparency, accountability, and thus legitimacy of European politics« (Greven 2005: 264). Informal forms of horizontal security governance run the risk of bypassing the majoritarian democratic oversight procedures characteristic of

European democracies. Whether the observed forms of informal security governance in the European Union are part of a larger pattern, and how this affects the democratic accountability and legitimacy of European security policies are therefore crucial issues for future debate. Also the difficult trade-offs between the increasingly pressing need to coordinate security policies across organizational and national boundaries and the requirements of democratic oversight merit closer attention.

CONCLUSION

This paper has identified several trajectories of transformation in the organization and function of the Weberian state monopoly on the legitimate use of force in Europe. How do these processes of transformation feed back into larger discussions about the future of the state monopoly on the use of force outside the European context? And what do the identified critical junctures in the European state monopoly on the use of force tell us about the scope of transformations worldwide? The following sets of questions merit further discussion:

Internationalization and supranationalization dynamics in Europe

What are the consequences of the described supranationalization and internationalization of the state monopoly on the use of force for the international order? Where are the normative and practical limits of this vertical integration? Will there (and should there) be a European army?

European engagement in international state- and security-building

What are the consequences of recent trends in the development of the monopoly on the use of force (internationalization, privatization, merging of internal and external security) for European engagement in peace- and statebuilding as well as stabilization activities? Is there a future for international state- and security-building projects in view of the sustained critique? What are the normative implications of the described interdependence of security governance in the Global North and the Global South?

Transnational and horizontal dynamics of security integration in Europe

What are the normative and practical challenges of the described convergence of the internal and external security fields in Europe? Have the outlined transnational and horizontal transformations contributed to the emergence of illiberal practices in the European security field? In a time where the democratic control and oversight functions of political and judicial institutions have been challenged by security privatization, informal security cooperation and covert operations and surveillance practices, how can democratically legitimate and accountable forms of security governance be upheld?

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REFLECTION GROUP MONOPOLY ON THE USE OF FORCE

The Reflection Group »Monopoly on the use of force 2.0?« is a global dialogue initiative to raise awareness and discuss policy options for the concept of the monopoly for the use of force. Far from being a merely academic concern, this concept, at least theoretically and legally remains at the heart of the current international security order. However it is faced with a variety of grave challenges and hardly seems to reflect realities on the ground in various regions around the globe anymore. For more information about the work of the reflection group and its members please visit: http://www.fes.de/GPol/en/security_policy.htm

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