

Private Military Companies and the Iraq War

The Political, Economic and Legal Drivers behind the
Use of Private Military Companies by the United States

Master thesis

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Abstract

This research answered the question which political, economic and legal drivers the U.S. government had to hire PMCs during the Iraq War. The scientific relevance of this research is that it provides an objective and non-biased view on the use of PMCs by the U.S. in the Iraq War. The goal of this research is to expand and generalize the theory behind the use of PMCs by governments, this is also known as analytical generalization. The analysis is done by conducting a content analysis with documentation as the most prominent source of evidence.

Multiple hypotheses were tested to provide an answer to the question:

'To what extent can the use of private military companies by the U.S. in the Iraq War be explained by political, economic and legal drivers?'

It became clear that the political drivers for the use of PMCs are to avoid political costs, to maintain plausible deniability, to minimize the chance of friction with local populations, and to make the DoD agile and flexible. PMCs were also used for specific skill sets. When it comes to the economic drivers, the use of PMCs can be explained by the fact that PMCs were seen as a necessity to provide the manpower that was needed to meet the change in demand for security, because of their cost-effectiveness and to free up resources which could be used into the combat arms. The legal drivers behind the use of PMCs was to circumvent Iraqi laws, to turn over responsibilities, and to circumvent the force cap of 160.000 U.S. soldiers. In general it became clear that the use of private security services is beneficial to the U.S. government because it can mitigate the political and economic consequences of an armed conflict. On the other hand, the specific qualities of PMCs also fit the nature of the work requested in Iraq.

Finally, the results of this research should contribute to the theory about the use of PMCs by governments, and in particular the U.S. government. The findings of this research are just based on documents which are open to the public, let alone what could be achieved with access to classified documents. While this may never happen, further research could be done to determine whether these are unique drivers for the use of PMCs by the U.S. in the Iraq War or that they can be applied to other conflicts or even other governments.

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1. Introduction

It is fair to say that the private security industry leads to polarized opinions. For some it is unthinkable to hand over the responsibility for public security to the private sector, and therefore commercialize it, while others claim that private security companies can be seen as a needed complement to state security services or even as an alternative. So, there is *'no general agreement on how private security companies can and should be used'* (Dzhekova et al., 2015, p. 1). Part of the private security companies are the private military companies (PMCs). Since the end of the Cold War the use of private military companies has increased (Singer, 2001, p. 193). In today's armed conflicts *'foreign hired personnel are often present providing military services'* (Faite, 2004, p. 1).

In the last 15 years the presence of the United States of America in Afghanistan and Iraq have sustained the presence of private military companies. Research on conflicts in Africa involving PMCs provides evidence on the value of PMCs. PMCs claim they have the ability to quickly end or even prevent conflicts (Sullivan, 2018). The United Nations also increases the use of PMCs for its missions abroad (Global Policy Forum, n.d.). But the same research on PMCs in Africa, as mentioned earlier, also highlights concerns about the future of PMCs. It can be argued that because of the fact that PMCs profit the most by sustained conflicts they cannot provide a long-term solution for armed conflicts or national defense (Sullivan, 2018). Furthermore, the events in relation to Fallujah and the Nisour square in Iraq, which involved PMCs hired by the U.S., should invoke scrutiny to the use of PMCs in conflict situations (Sullivan, 2008). These incidents had led to an increase in the discourse about the role of PMCs in conflict and post-conflict environments. It also evoked the development of international regulatory mechanisms that are focused on transparency and accountability and on how the standards and good practices can be improved (Dzhekova, et al., 2015, p. 1). Despite the fact that there are polarized opinions and no optimal working regulatory mechanisms the use of PMCs is increasing. This research will focus on the presence of American PMCs in the Iraq War to find out what the motivations and drivers of the United States government are to use PMCs in this conflict. Is it because of the cost-effectiveness? The flexibility in terms of accountability? Or because it carries less political burden? This leads to the central question of this research:

'To what extent can the use of private military companies by the U.S. in the Iraq War be explained by political, economic and legal drivers?'

The global private security market is dominated by the U.S. and the United Kingdom (Kinsey, 2006). This research will focus on the U.S. because the Iraq War was started and led by the U.S. The case of the Iraq War is chosen because of the fact that it was a war in which the private military industry played a significant role. More than 60 PMCs deployed more than 20.000 personnel who carried out military functions. This means that these companies contributed more forces to the Iraq War than any member of the U.S.-led coalition and even almost as much as all the members of the coalition, excluding the U.S., together (Singer, 2004).

The shortcomings with regard to the existing literature on PMCs is that it is highly polarized and therefore often subjective. These authors are more focusing on promoting their own point of view instead of trying to broaden the knowledge (Singer, 2004). The scientific relevance of this research is that it should provide an objective and non-biased view on the use of PMCs by the U.S. in the Iraq War. However, this research is only focused on the U.S., therefore the aim of this research is to expand and generalize the theory behind the use of PMCs, this is also known as analytical generalization (Yin, 2009). The results of this research should also lead to a better understanding of the reasons why the use of PMCs increases despite there being still a legal and moral discourse about the use of these kind of companies. The answer to this question will also provide more information about what can be expected of the use of PMCs in future warfare and if there could be a shift from public to private military warfare. Furthermore, morally speaking people have the right to know if security will be provided by the public sector, like governments, or by the private sector, in this case the PMCs. Traditionally, citizens expect that governments have the duty to protect and provide security to them. A shift from the use of public military services to the use of private military services could change these expectations. Therefore, this research will not only be scientifically but also socially relevant.

2. Theoretical framework and hypotheses

2.1 Iraq War

On 9 April 2003, the whole world saw how the inhabitants of Baghdad, aided by U.S. soldiers, destroyed the 39 ft statue of Saddam Hussein which was located on the Firdos Square. This officially meant the end of the Hussein era but not the end of the Iraq War, which ended 8 years later in December 2011 (Stanley, 2015; Zuijdam, 2004).

The Iraq War started in 2003 but the attacks of 9/11 in 2001 played a huge role. Shortly after these attacks it was quite clear for the U.S. government that a new kind of danger emerged. As George W. Bush stated: *'In the past, enemies needed large armies and large industrial capacity to pose a threat to America. Today, shadowy networks of individuals can wreak havoc and personal distress in our country for less than the price of a single tank. Terrorists are organized to enter open societies and harness the power of modern technologies against us'* (Zuijdam, 2004, p. 80). The fact that a state has the (nuclear)power to execute large scale retaliations is not effective anymore when the enemy is not a country but a shadowy network of individuals who purposely victimizes the innocent and whose soldiers choose to die as martyrs (Zuijdam, 2004). For this reason, the Bush administration changed its strategy and soon after the attacks of 9/11 Bush declared on national television that the U.S. *'will make no distinction between the terrorists who committed these acts and those who harbor them'* (LaFeber, 2002, p. 543). This formed the basis for the Bush-doctrine.

Around one year after the attacks, on 20 September 2002, the Bush administration proclaimed the doctrine of 'preventive attacks' or 'defensive intervention'. This was the moment that the Bush-doctrine became official. The central idea behind this doctrine is that states or terrorist organizations that pose a threat to the international (western) community and in particular the U.S. can be attacked in order to prevent 'worse', like terrorist attacks. Before the doctrine was official it was already used in the war against terrorism to fight the Taliban which resulted in the invasion of Afghanistan. After defeating the Taliban their focus went to the reign of Saddam Hussein (Zuijdam, 2004).

On 29 January 2002 Iraq was officially indicted of having weapons of mass destruction and having connections with terrorist organizations (Zuijdam, 2004). The U.S. government provided three

"In the past, enemies needed large armies and large industrial capacity to pose a threat to America. Today, shadowy networks of individuals can wreak havoc and personal distress in our country for less than the price of a single tank." - George W. Bush

explanations to justify the invasion and occupation of Iraq. The first explanation that was used was the fact that Saddam and his regime were in the possession of weapons of mass destruction (WMDs), the second explanation was that Saddam had connections with terrorist networks and the third explanation was that he would sell his WMDs to these particular terrorist organizations (Stanley, 2015).

“We will make no distinction between the terrorists who committed these acts and those who harbor them.” - George W. Bush

The U.S. government did not start the preemptive attack directly after accusing Iraq but in the course of 2002 ideas of such an attack became more concrete. In the summer of 2002 Bush declared that they will act upon terrorist threats and that Saddam Hussein will be deposed by any means necessary (Zuijdam, 2004). The Secretary of State at that time, Colin Powell, advised to create as much international support as possible. Bush accepted his recommendation to first seek UN support (Baker, 2013).

On September 12, Bush issued an ultimatum to the Security Council: if the council did not monitor compliance of the UN resolutions on Iraq, the U.S. would do it on its own (Zuijdam, 2004). On 8 November the Security Council declared that Iraq *'has been and remains in material breach of its obligations under relevant resolutions and demanded that Saddam provide immediate, unimpeded, unconditional, and unrestricted access to weapons inspectors, and warned Iraq that it would face serious consequences as a result of its continued violations of its obligations'* (Stanely, 2015, p. 130-131). Iraq choose to comply with this judgement and welcomed UN weapon inspectors. At the same time U.S. forces were already in the Persian Gulf to increase pressure on Saddam Hussein and to show that they would act unilaterally if necessary. The UN security council debated about a new resolution in the case of Iraq, while the U.S. and the U.K. wanted a resolution that would provide a mandate for the use of violence. When the rapport on Iraq with regard to the possession of WMDs came out, the UN weapon inspectors could not provide a clear and undisputed answer. In the meantime, there was a disagreement within the UN Security Council about the role of the U.S. The various camps in the Security Council therefore interpreted the reports regarding the possession of WMDs by Iraq in their own way (Zuijdam, 2004).

On 5 February 2003 Colin Powell briefed the UN Security Council that Iraq had developed and stockpiled WMDs and therefore continued to defy UN resolutions (Stanley, 2015). Still there were major disagreements about how to deal with the situation. The French President Chirac even seemed to take every opportunity to emphasize that France would, if necessary, use its veto in the Security Council to block a new UN resolution. The U.S. and the U.K. understood that no agreement could be reached through diplomatic channels and made no serious attempts to do so. There was not much for them to do but go to war together with

the countries that supported them, also known as the Coalition of the willing, but without a mandate from the UN (Zuijdam, 2004).

By mid-March 2003 the U.S. army generated enough combat power to start ground offensive operations. On 16 March Bush launched Operation Iraqi Freedom and issued an ultimatum with a 48-hour deadline. On 20 March Coalition troops started to invade Iraq (Stanley, 2015). On the same day Saddam Hussein held a speech on national television that the attacks conducted by the Coalition are '*shameful crimes against Iraq and humanity*' (CNN Editorial Research, 2020).

Operation Iraqi Freedom consisted of four phases. The first phase was the planning and preparation. The second phase was about the positioning of Coalition forces in order to conduct sustained combat operations. The third phase were conventional air and ground operations and the final phase consisted of post-hostilities operations. The central idea behind planning this invasion was to conduct air and ground operations as fast as possible and near simultaneously in order to limit civilian casualties and minimizing the chance of region instability, mass starvation, refugees and the sabotage of oil fields (Stanley, 2015).

The beginning of the war went smoother than expected. The Coalition ground forces did not receive much resistance when they moved further into Iraq. The western part of Iraq was invaded from advanced bases in Jordan and Saudi Arabia by Special Operations Forces in combination with airpower. This led to the quick control over large parts of the deserts (Stanley, 2015).

On 26 March, six days after the beginning of the ground invasion, the northern part of Iraq was invaded by paratroopers. This airborne operation was important in order to prevent the Iraqi divisions, stationed in the north, to provide aid to the Iraqi divisions in the south who were trying to stop the main U.S. ground attack. U.S. army troops now advanced north towards Baghdad while British amphibious and ground operations went south to secure the oil infrastructure (Stanley, 2015).

By 5 April U.S. forces had seized the international airport of Baghdad which was located just outside the city. The next four days U.S. forces were fighting in the center of the city and eventually forced the Iraqi army to give up its defenses around the city (Stanley, 2015).

On 9 April the major combat operations, which was phase 3 of Operation Iraqi, came to an end. The Republican Guard and Special Republican Guard soldiers and officers of the Iraqi army were defeated (Stanley, 2015). The 39 ft large statue of Saddam Hussein on Firdos Square is destroyed, and the U.S. government declared "*the regime is gone*" (CNN Editorial Research, 2020).

On 1 May 2003 Bush congratulated the U.S. forces on their success in Operation Iraqi Freedom while standing beneath a massive banner with the words "*Mission Accomplished*" aboard the USS Abraham Lincoln aircraft carrier (Stanley, 2015).

On 9 May Bush appointed L. Paul Bremer to be in charge of all U.S. government personnel, activities and funds and with the leadership of the Coalition Provisional Authority (CPA) in Iraq (Stanley, 2015). The CPA was a new temporarily government which tasks consisted of maintaining security and rebuilding the massively damaged infrastructure of Iraq (Chambers, Woods, Khadduri, Kennedy & Blake, 2020).

At the end of May 2003 around 160.000 Coalition troops were ready to begin the post conflict operations all over Iraq. But phase four of Operation Iraqi Freedom, which consisted of post hostilities operations, turned out to be more complicated than the combat phase. The problem was that while planning Operation Iraqi Freedom the Coalition military planners did not know that a huge part of the Iraqi defense existed of paramilitary organizations. These Iraqi paramilitary organizations did not fight as traditional armies but more as irregulars. So, the Coalition did defeat the Iraqi national army but did not defeat Iraq as a whole and many of these paramilitary organizations stayed active and used violence to achieve their goals (Stanley, 2015). Also, two orders of the CPA had huge consequences on the situation in Iraq. Order No. 1 De-Ba'athification of Iraqi Society, issued on 16 May, stated that people who held one of the four top ranks in the Ba'ath Party were removed from public life. The Ba'ath Party was Saddam Hussein's political party. Order No. 2 Dissolution of Entities, issued on 23 May, disbanded all military and intelligence institutions of Saddam. These decisions affected around 2.4 million people which is around 10% of the population of Iraq. Order No. 1 led to the situation in which many Ba'athists went underground, and Order No. 2 led to a high amount of unemployment. During the reign of Saddam Hussein, a lot of people became member of the political party because it was the only way to get a job at the government. This high rate of unemployment led to a lot of street crime and lawlessness. In certain regions the security situations had become unstable and these regions became very dangerous (Stanley, 2015).

Another big problem was that while planning phase 4 the U.S. expected that of the 715.000 men, which was the amount of the Iraqi army, 400.000 would surrender. In this case many units would still be intact and could be employed on reconstruction projects or to provide security. However, this did not happen. What did happen is that the Iraqi Army as a whole ceased to exist which means that there was a lack of power structure (Stanley, 2015). There was also a situation in which certain individuals or groups saw an opportunity to pursue their own goals and objectives due to the lack of authority. Because of the collapse of Saddam's regime many suppressed political, religious and ethnic conflicts among citizens started to reemerge. By some of these goals and objectives violence was involved (Stanley, 2015). More troops were requested in order to conduct stability operations but U.S. General

Tommy R. Franks, who oversaw the invasion of Iraq, decided that more forces were not necessary to stabilize Iraq (Stanley, 2015).

By November 2003 the Coalition had reported around thousand insurgent attacks all over Iraq. The violence increased but Secretary of Defense Donald Rumsfeld claimed that the policy to improve security in Iraq was on track (Stanley, 2015). On 13 December Saddam Hussein was captured in the city of Tikrit (CNN Editorial Research, 2020). But even when Saddam was captured the violent attacks continued to increase (Stanley, 2015). By the end of June, the U.S.-led coalition hands over its sovereignty to the interim Iraqi government. On the first of July 2004 Saddam Hussein is officially charged with multiple crimes. These charges contained the invasion of Kuwait and the gassing of Kurds (CNN Editorial Research, 2020).

On 30 January 2005 the first major democratic election found place. Almost 60% of the eligible voters showed up. This was quite unexpected because it was dangerous to vote. The reason for the increased violence was that the more democratic Iraq became the more violence insurgents and terrorists used (Stanley, 2015).

On 5 November 2006 Saddam Hussein was found guilty and was hanged on 30 December 2006 (CNN Editorial Research, 2020).

Between 2004 and 2006 the nature of the Iraq conflict changed. The nature of violence changed from an anti-American insurgency to a sectarian war in which extremists played a huge part. Because of this change the U.S. needed a new strategy. In 2007 the U.S. government and the Iraq government needed to change the security situation in Iraq. Large parts of the country did not have government control and internal violence paralyzed the economy and daily life. In order to deal with this poor security situation Bush decided to increase the number of U.S. forces in Iraq, also known as "*the surge*" (Stanley, 2015).

Between 2007 and 2009 the security situation in Iraq improved. Barack Obama, who was elected in 2008, decided to withdraw all American troops by December 2011. In 2009 the violence was decreased with 90% compared to the situation in 2006 and 2007 (Stanley, 2015). On 1 September 2010 the U.S. changed the name of Operation Iraqi Freedom to Operation New Dawn which reflects the reduced amount of U.S. troops that will be active in securing Iraq. On 18 December 2011 the last U.S. troops officially cross the border into Kuwait (CNN Editorial Research, 2020). On 1 January 2012 the State Department formally ended the U.S. combat mission in Iraq (Stanley, 2015).

2.2 Privatization of Security

The development of the privatization of security is often described

as *'one unified homogeneous phenomenon'* (Mandel, 2001, p. 135). However, it is a development that is the result of different factors. One of the factors is the end of the Cold War. The end of the Cold War had a big influence on the rise of the private military industry. Since the end of the Cold War, PMC activity *'has risen all over the world'* (Singer, 2001, p. 188). The reason for this surge is that it made an end to the bipolar international system in which Russia and the U.S. played a major role. During the Cold War certain regions received a lot of military support from Russia or the U.S. because of their geopolitical importance, but when the Cold War ended these regions lost their geopolitical importance which led to a decrease in military support and deprived certain regions, especially countries that can be seen as developing countries. Another consequence of the end of the Cold War was

“Since the end of the Cold War, PMC activity has risen all over the world.”

the reemerging of certain inter- and intrastate tensions that were suppressed during the Cold War. The decrease in military support from Russia and the U.S. in combination with the inter- and intrastate tensions that reemerged, led to an increase in the demand for military services. This demand was met by the PMCs (Machairas, 2014). Another equal decisive factor as the end of the Cold War is *'the general trend of privatization and outsourcing'* (Machairas, 2014, p. 49). The free-market philosophy, which is applied in many countries, led to the downsizing of government functions and budgets. This general trend has made outsourcing, even in the private military services industry, *'the next logical step'* (Machairas, 2014, p. 49-50).

Part of the definition of 'security privatization' is that it involves the nongovernmental provision of military services. However, this is quite a broad definition and needs more clarification. When it comes to privatized security a distinction can be made based on the scope, form and purpose of privatization (Mandel, 2001). These distinctions will now be further elaborated in order to provide a clear taxonomy of security privatization.

The first distinction that can be made is based on the scope of privatized security. Most focus lies on the situations where a private nongovernmental actor provides foreign security assistance to a governmental or nongovernmental actor in another state. In this case the provider or the recipient of the services introduces this cooperation, whereby most of the time the provider is from a more industrial society while the recipient is located in a developing country. What people tend to forget is that there are many cases in which the provider and the recipient of the services are from the same country. In these kind of situations tasks of national governments are partially replaced by privatized security forces. For example, when tasks of national police forces get replaced by private security companies. This is happening in developed countries as well as in developing countries. What may

blur this distinction is that there are also companies who provide services to both a national army and a government police force or the situation in which a single private security company provides national and international security services (Mandel, 2001).

Another part of the distinction in relation with scope is whether the provided private security is organized top-down or bottom-up. When it comes to the privatization of security three actors can be involved which are governments, which can only be recipients, corporations and societal groups and individuals. When a government decides to hire a private security provider for its internal or external security activities this can be labeled as a top-down initiative of privatized security. Bottom-up privatized security is when individuals or societal groups decide to handle the security for themselves or when they offer their security to other actors. Organized societal groups can be for example militias, gangs or vigilantes. However, just like the earlier mentioned distinction based on the country of the provider and recipient there is also a grey area in this distinction. This is the case when a private corporation, like a multinational, decides to provide their own security or when they hire a private security actor in order to provide security. When this is the case it is hard to determine whether this is bottom-up or top-down. This grey area where private corporations hire other corporations to provide security might grow in the future (Mandel, 2001).

The second distinction can be made based on the form of security privatization. This is about whether the provided security is related to direct combat support or providing military advice (Mandel, 2001). When an actor provides direct combat support it participates in military operations by engaging in the tactical environment. Which means that it engages in the actual fighting, commanding units in the field or providing weapon systems (Mandel, 2001; Singer, 2001). When an actor has a more advisory role it provides education on military strategies, like battlefield training or tactics (Mandel, 2001). But there is a third type of private security actors which are active in providing supportive services which are crucial to military operations (Singer, 2001). The existence of security actors who provide services which includes logistics, technical support and transportation create a blurry area between the earlier mentioned categories (Mandel, 2001; Singer, 2001). Because they have a more direct influence on the balance of military power these actors cannot be seen as part of the category of private security actors who provide military advice. However, most of the media attention goes to the private security actors who provide direct military support while security actors who provide military advice and support is becoming more common (Mandel, 2001).

The last distinction can be made based on the purpose of privatized security. Here it is about whether it is used for offensive or defensive purposes. The motivations of the recipient play a

crucial role in the determination whether the privatized security is used for offensive or defensive purposes, not that of the provider. When the recipient uses the private security actor in order to maintain peace and order and maintaining the status quo, then it falls under the defensive category. If the private security actor is hired for the purpose of overthrowing an established legitimate government then it is clearly part of the offensive category. However, also this distinction it is not always as clear as it is described above. Sometimes it can be hard to determine what is meant by the status quo. For example, there are situations in which private security actors are used to overthrow an illegitimate dictator who took over the country by force or situations in which private security actors are used to change the balance of power in an ongoing war (Mandel, 2001). In these kinds of situations, it can be hard to determine whether privatized security is used for offensive or defensive purposes.

Figure 1 is used to provide an overview of the different categories, indicators and grey areas when it comes to privatized security based on the theory of Robert Mandel (2001, p. 137)

2.3 Private Military Companies

The field of international security has changed since the end of the Cold War. Before the end of the Cold War security was the responsibility of state militaries. Governments still rely on their public military forces to protect borders and essential interests but after the end of the Cold War governments started to use

“Nowadays the U.K. and U.S. PMCs dominate the global market. But the UN is also using PMCs more often for missions abroad.”

a different kind of security actor, namely PMCs. Nowadays *‘the U.K. and U.S. PMCs dominate the global market’* (Kinsey, 2006, p. 1). But the UN is also using PMCs more often for missions abroad (Global Policy Forum, n.d.).

A PMC is a profit-driven organization that trade in *‘professional services that are intricately linked to warfare’* (Singer, 2001, p. 186). This means that these organizations are corporate enterprises that are specialized in the provision of military skills. This includes *‘tactical combat operations, strategic planning, intelligence gathering and analysis, operational support, troop training, and military technical assistance’* (Singer, 2001, p. 186). Three types of PMCs can be distinguished by the range of services and levels of force they are able to offer. There are military provider companies, these companies are active in the tactical environment. This means that they offer services at the frontline of battles, like engaging in actual fighting or commanding and controlling field units (Singer, 2001).

A second type of PMCs are the military consulting companies. These are the companies which provide training

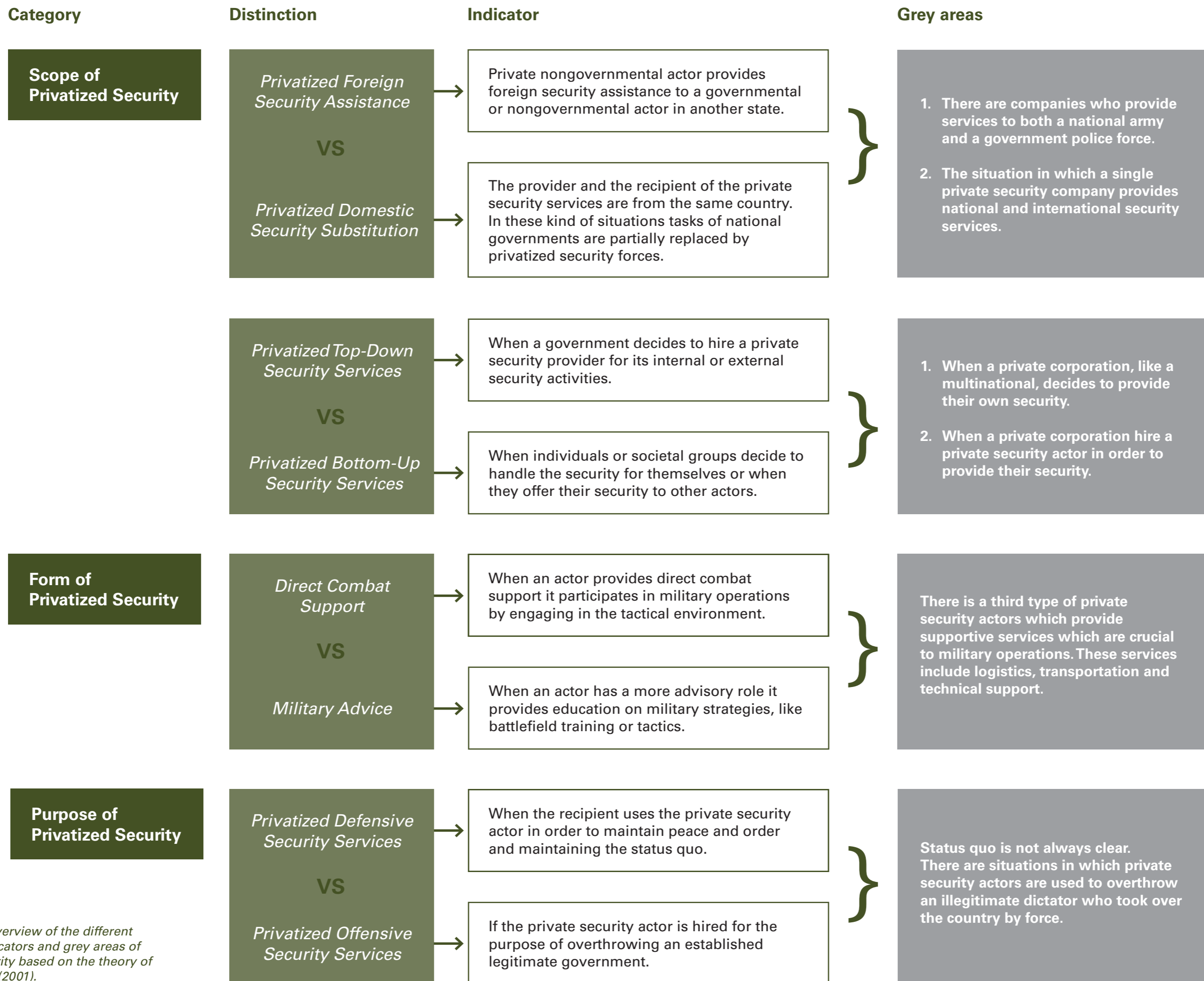


Figure 1 | An overview of the different categories, indicators and grey areas of privatized security based on the theory of Robert Mandel (2001).

services and have an advisory role. This kind of companies are often hired to restructure armed forces. In order to achieve this, they use '*strategic, operational, and organizational analysis*' (Singer, 2001, p.201).

The last type of PMCs provides military support. This means that they do not participate in the planning or execution of activities that are directly linked to the actual fighting, but they provide supportive services which are critical to combat operations. For example, '*logistics, technical support, and transportation*' (Singer, 2001, p. 202).

2.4 Political, Economic and Legal drivers behind the use of PMCs

Besides the different kind of PMCs that are active in the private security sphere it is also important to know what drives actors to use PMCs in certain conflicts. This paragraph will be about the political, economic and legal drivers behind the use of PMCs. The distinction between these three drivers are mainly based on the report by Schreier & Caparini (2005). They wrote a report about the discussion in the U.S. with regard to the use of PMCs in which they provide an overview with the main arguments in favor of the use of PMCs but also the main arguments against the use of PMCs. In addition, the articles by Brooks (2000), Kinsey (2006), Machairas (2014), Oedekoven (2005) and Singer (2001) will be used to clarify the different drivers.

Political drivers

The rise of the private military industry has led to a situation in which the state monopoly of violence is no longer an exclusive right. Non-state actors, for example multinationals and international institutions, can hire PMCs for armed protections or operations in certain conflicts. However, it is argued by observers that this does not lead to a change on the overall control of force. It may have an effect on the way in which the power of force is allocated within the states because the control of power is now spread out to a larger range of actors but according to Avant (2004; as mentioned by Machairas) it will only change the political processes with regard to the use of force and will not affect the state its control of violence. A reason for this according to Sarah Percy (as mentioned by Machairas) is that governments achieved to maintain a close relationship with the private military industry. For example, in the U.S. in order for a PMC to be able to provide military services to foreign actors it needs not only to be registered but also licensed by the United States Department of State. This basically means that PMCs only provide services with the approval of the U.S. government (Machairas, 2014).

Still, there is a general lack of transparency when it comes to

the use of PMCs, this will be further elaborated in the section 'legal drivers', but also has an effect on the political drivers for the use of PMCs. PMCs can be used in situations in which governments do not want to be associated with. Contracting PMCs makes it possible for governments to avoid the risk of the political costs that are associated with sending armed forces abroad. So, they are used in situations or operations which they want to keep far away from legislators, press and the public opinion (Schreier & Caparini, 2005). In this way governments have got the opportunity to low-key carry out foreign policy goals on the international stage without the risk that the attention of the media got triggered because of the deploying of their own soldiers or when they fall in action. A study conducted by the U.K.'s Ministry of Defense in 2012 on public support with regard to military endeavors concluded that 'both the media and the public appear less casualty-averse' when it comes to private contractors in comparison with national forces of the country (Machairas, 2014). Denial of the involvement in certain missions or conflicts is easier when the personnel is not wearing official uniforms (Schreier & Caparini, 2005).

Another political factor that leads to an increase in the use of PMCs is the change in the nature of warfare and its modernization. Technology plays a huge role in today's military operations. This leads to the situation in which the operations rely more on civilian specialists who have the skills to manage sophisticated military systems. So, there is a need for specialized expertise which can be found in the private sector (Singer, 2001).

Furthermore, besides specialized expertise the military also needs to be agile, flexible and very quickly deployable (Oedekoven, 2005). Military outsourcing can be used as a way to fulfill these requirements. Military outsourcing is already used by the U.S. Department of Defense to train, equip and prepare units for their deployment (Oedekoven, 2005). Furthermore, in general military forces are trained and organized to fight Nation's wars while nowadays security and stability organizations are equally important. This shift requires a different kind of skill set and capabilities. For the tasks which are not directly linked to traditional warfighting military outsourcing is used to fulfill these tasks. The idea behind this is that PMCs provide in the missing skills (Oedekoven, 2005).

To conclude, the political drivers for the use of PMCs can be summarized as:

1. PMCs can be used for engaging in conflicts without domestic or international protests.
2. PMCs can be used in conflicts while maintaining plausible deniability.
3. PMCs are used to provide valuable (missing) skills
4. PMCs are used to make the United States Department of Defense (DoD) agile and flexible in dealing with the

modernization of warfare.

This leads to the expectations that the U.S. government hired PMCs in the War in Iraq to avoid the risk of the political costs that are associated with certain operations (Hypothesis 1) and in order to deal with the transformation of modern warfare (Hypothesis 2).

Economic drivers

More economical drivers behind the rise of the private military are the '*general trend of privatization and outsourcing*' and the relatively low financial barriers to enter the private military industry (Machairas, 2014, p. 49; Singer, 2001, p. 198). Because of the end of the Cold-War armies around the world shrank. More than 6 million professionals with a unique set of skills came available for the private military branch. A lot of these people were not ready to go back to their civilian life and were looking for work. At the same time massive arms stocks became available on the global market. Anyone who had enough capital was able to afford guns, tanks and even fighter jets. So, the downsizing of the military industry created a boost in both supply and demand (Singer, 2001).

It would seem that PMCs are ideal to meet this demand. However, the international community is not that excited about the use of PMCs despite the fact that they booked military successes in Angola and Sierra Leone. They have shown that they are cost-effective, more than capable and a good way to provide stability which is necessary to establish peace agreements for the long-term (Brooks, 2000). Furthermore, PMCs have the ability to provide military services in a more efficient, rapid and cheaper way. This kind of companies tend to be more pragmatic and make it possible for the state military to focus on their core missions (Brooks, 2000). For example, the United States Department of Defense (DoD) privatized some of its traditional tasks and allowed the DoD to free-up resources for combat related tasks and to improve logistics and supply lines (Brooks, 2000). Especially over the long-term out-sourcing of military tasks will lead to cost savings for the U.S. government (Oedekoven, 2005).

“Anyone who had enough capital was able to afford guns, tanks and even fighter jets.”

Another important aspect is that the barriers to enter the private military industry are relatively low in comparison to more traditional industries like manufacturing. It also does not require heavy investments which are needed in the public military structure. For example, military bases itself or pension plans (Singer, 2001). This makes it possible for PMCs to lower their costs. Hiring PMCs seems expensive but because they only need to be paid when needed it is cost-effective (Schreier & Caparini, 2005).

To conclude, the economic drivers for the use of PMCs can be summarized as:

1. PMCs are used to meet the change in the demand for security

2. PMCs are more efficient and cheaper in their use (i.e. cost-effectiveness).
3. PMCs are used by the DoD so they can focus its resources into the combat arms.

This leads to the expectation that the U.S. government used PMCs in the Iraq War because of its cost-effectiveness (Hypothesis 3).

Legal drivers

As mentioned above, the demand for PMCs is likely to increase in the future. However, most of U.S. legislation regarding PMCs is out of date. The focus of the law lies with the prohibition of the recruitment of mercenaries within U.S. borders instead of focusing on the services PMCs provide simply because of the fact that when these laws were made PMCs did not exist (Kinsey, 2006). Like mentioned before Sarah Percy (as mentioned by Machairas) stated that governments hold close relationships with the private

“This lack of transparency makes it possible for democratic governments, like the U.S. government, to interfere in foreign policy and carry out military actions without facing domestic or international protests.”

military sector and that PMCs only execute missions with approval of the U.S. government. However, PMCs are not subject to adequate monitoring and oversight which results in a lack of transparency (Machairas, 2014). This lack of transparency makes it possible for democratic governments, like the U.S. government, to interfere in foreign policy and carry out military actions without facing domestic or international protests. (Machairas, 2014) An example to show

this is that according to U.S. law the Congress has the authority to oversee official political entities but not private entities (Machairas, 2014). PMCs only need to notify Congress if a contract accedes \$50 million but many contracts are below this amount or are simply broken up in order to circumvent this obligation (Kinsey, 2006). In this way PMCs can purportedly undertake covert missions for governments (Machairas, 2014). Still, in order for a PMC to operate abroad it needs a license provided by the U.S. government. There are specific oversight requirements to make sure that a company acts in according to the contract. Normally, the most senior ambassador in the country where the contract is executed is responsible for general oversight, but no one is solely responsible for the oversight of active PMCs while this is not a small task (Kinsey, 2006).

The legal arguments about the role of PMCs on the international stage have been marginalized. This leads to the fact that the legal position of PMCs remains ambiguous. Because their legal position is ambiguous it is easy for PMCs *‘to avoid meeting the full criteria of the definition and therefore prosecution’* (Kinsey, 2006, p. 134). So, international law, as we know it now, it is still inadequate do deal with PMCs who execute their functions on the international stage. In order to solve this problem a new international convention would be needed. However, the political

will from the international community to change this is insufficient. Even if there was enough political will to do something about this problem, there is a big chance that this Convention would take a long time to put into force. This expectation is based on the fact that in 1989 the 'International Convention for the Recruitment, Use, Financing and Training of Mercenaries' was adopted with the intention to prohibit and regulate activities of mercenaries but it came into force in October 2001, which is 12 years later (Kinsey, 2006). This may imply that governments do not want to develop further regulation because it could have a negative effect on their political and economic advantages when they make use of PMCs (Machairas, 2014).

“Because their legal position is ambiguous it is easy for PMCs to avoid meeting the full criteria of the definition and therefore prosecution.”

To conclude, the legal drivers for the use of PMCs can be summarized as:

1. PMCs are used because of the lack of accountability and oversight.
2. PMCs are used to circumvent legislative limits.

The fact that it is easy to avoid prosecution leads to the expectation that the U.S. used PMCs in the Iraq War because of the flexibility in terms of accountability and impunity (Hypothesis 4).

Hypotheses

In order to answer the main question of this research, the testing of the earlier mentioned hypotheses will create insight why the U.S. government used PMCs in the Iraq War. The hypotheses of this research are:

1. The U.S. government hired PMCs in the War in Iraq to avoid the risk of the political costs that are associated with certain operations.
2. The U.S. government hired PMCs in the War in Iraq in order to deal with the transformation of modern warfare.
3. The U.S. government used PMCs in the Iraq War because of its cost-effectiveness.
4. The U.S. government used PMCs because of the flexibility in terms of accountability and impunity

3. Methodology

The phenomenon that will be explained in this research is why the United States used private military companies (PMCs) in the Iraq War. The unit of analysis will be the United States and because this is the only unit of analysis this research will have a holistic design. This research will focus on the political, economic and legal drivers of the U.S. to use PMCs in this particular war. Together with the U.K. the U.S. dominates the global private security market (Kinsey, 2006). But because the U.S. led the war in Iraq, the U.S. is chosen as the unit of analysis. The Iraq War is chosen as conflict because of the fact that PMCs played a prominent role in this conflict. During the Iraq War more than 20.000 personnel of more than 60 PMCs were employed in order to carry out military tasks (Singer, 2004).

The main research method that will be used is a single case study approach. Case study designs are seen as an effective methodology in order to study and explain complicated issues and real-life phenomenon (Harrison, 2017). Therefore, a case study design is appropriate for this research question because the use of PMCs by the U.S. in conflicts is a contemporary real-life phenomenon. In order to understand this phenomenon in depth the question of why the U.S. used PMCs in the Iraq War needs to be answered (Yin, 2009). This question is narrowed down to only the political, economic and legal drivers of the use of PMCs based on the articles by Schreier & Caparini (2005), Brooks (2000), Kinsey (2006), Machairas (2014), Oedekoven (2005) and Singer (2001). The article of Brooks (2000) is chosen because the author underlines the key factors that led to the growth of the industry as well as its implications for international peacekeeping. Kinsey provides in his book *'Corporate soldiers and international security'* (2006) content about the types of PMCs, the history of private violence, the privatization of warfare, the role of PMCs in a global environment and also the legal aspects. Machiaras (2014) examines the moral concerns when it comes to the use of PMCs and asks the question if regulation is enough. Oedekoven (2005) emphasizes in his report on the trends of military privatization, drawing observations regarding the role of the industry in the U.S. internal and external security policy. Also, the author provides the main opportunities and downsides of outsourcing and concludes the report with the suggestion of recommendations for the further improvement of the outsourcing practice. Finally, the article of Singer (2001) provides the reasons of military privatization and the history of this phenomenon.

The type of case selection that is pursued is that of a critical case. The earlier mentioned articles provide different drivers behind

the use of PMCs in certain conflicts. By researching the drivers behind the use of PMCs by the U.S. in the Iraq War the theory can be tested. In this way this research can confirm, challenge or extend the theory (Yin, 2009). The outcome of this single case study can play a part in the future research on why PMCs are used in conflicts. So, the aim of this research is to expand and generalize the theory behind the use of PMCs, this is also known as analytical generalization (Yin, 2009).

3.1 Data Collection

This research should provide knowledge about the reasons why the U.S. government used PMCs in the Iraq War. Data are needed about the Iraq War with regard to the role of PMCs hired by the U.S. government. The most prominent source of evidence that will be used in this case study is that of documentation. This is a type of information which can take many forms (Yin, 2009). The variety of documents that will be used in this case study are government reports, congressional records, news reports, books and other studies on the role of PMCs in Iraq. Furthermore, American political websites will be used. Finally, congressional documents about the decisions whether to use PMCs in the Iraq War will be analyzed. The different data from different sources should lead to a complete picture and will make it possible to check the validity of the different data sources. So, it is important to make use of triangulation.

Like mentioned before articles by Schreier & Caparini (2005), Brooks (2000), Kinsey (2006), Machairas (2014), Oedekoven (2005) and Singer (2001) but also other previous studies on the use of PMCs will be used in order to obtain data. News reports and scientific articles should provide information about the Iraq War itself. American political websites like Politico, The Hill, Slate and the Washington Post will be used to obtain data about the political, economic and legal drivers. Thirdly, books like *Days of Fire* by Peter Baker (2013) will be used to get a better understanding of the U.S. policy with regard to the Iraq War. Furthermore, congressional documents will be used to examine the political discussion about the outsourcing of the military industry. Finally, in order to measure the legal drivers behind the use of PMCs by the U.S. government, the development of international law, national law and accountability mechanisms regarding PMCs will be examined.

3.2 Data Analysis

A deductive reasoning will be used in this research. Deductive reasoning is about the testing of, in this case, multiple hypotheses

“Deductive reasoning is about the testing of, in this case, multiple hypotheses and the examination of the possibilities to come up with a specific and logical conclusion.”

and the examination of the possibilities to come up with a specific and logical conclusion. So, first there is a theory and based on that theory certain predictions are made. If the predictions are correct, it means that the theory is also correct (Bradford, 2017). Deductive reasoning will be used in this research because a theoretical framework is necessary to answer the research question. In order to find out the political, economic and legal drivers of the U.S. government to use PMCs a content analysis will be used. Content analysis is a method *‘for making replicable and valid inferences from material like documents, political speeches, newspaper articles etc. to the contexts of their use’* (Krippendorff, 2004, p. 18). Furthermore, it is a scientific tool which creates further insights in a particular phenomenon. Important parts of this research method are that the techniques that are used are reliable and valid. The method of content analysis is done in multiple steps. These are the steps in short:

1. It starts with a research question including a theoretical framework
2. It orders the information from the content via a codebook
3. Based from that ordering it does inferences
4. It finishes by answering the research question

“Content analysis is a method for making replicable and valid inferences from material like documents, political speeches, newspaper articles etc. to the contexts of their use.”

Important characteristics of content analysis are objectivity, systematicity and generality (Holsti, 1969). The characteristic objectivity is about that the research is done by following explicitly formulated procedures, that the procedures are reliable and replicable and that the findings are based on the content of a document. The latter means that the researcher only observes what is in the text and does not guess what it is not in the text (Holsti, 1969). The characteristic systematicity is about the way in which content and categories are included or excluded. This needs to be done based on consistent and clear rules (Holsti, 1969). This is where the codebook plays an important part. Finally, generality is about the possibility that certain findings can be applied to other cases and that the findings have a theoretical value (Holsti, 1969).

3.3 Codebook

In order to analyze different content in an objective and systematic way a codebook is important. The codebook that will be used in this research is based on the book by Kinsey (2006) and the articles by Machairas (2014), Singer (2001) Oedekoven (2005) and

Brooks (2000).

Kinsey (2006) provides in his book *'Corporate soldiers and international security'* content about the types of PMCs, the history of private violence, the privatization of warfare, the role of PMCs in a global environment and also the legal aspects. In the article *'The ethical implications of the use of private military force'* Machiaras (2006) examines the moral concerns when it comes to the use of PMCs. Singer (2001) provides in his article *'Corporate Warriors'* the reasons behind military privatization and the history of this phenomenon. The report of Oedekoven (2005) is used because in his report *'Military Out-sourcing: Observations, Opportunities, Conflicts and Recommendations'*, the author emphasizes on the trends of military privatization, drawing observations regarding the role of the industry in the U.S. internal and external security policy. Also, the author provides the main opportunities and downsides of outsourcing and concludes the report with the suggestion of recommendations for the further improvement of the outsourcing practice. These documents are chosen because the authors examine different reasons why actors use PMCs in certain conflicts. Based on those potential motivations a distinction is made between political, economic and legal drivers to use PMCs in certain conflicts. These different drivers are the categories that are used in the codebook. So, the categories will be:

- Political drivers
- Economic drivers
- Legal drivers

The unit of analysis that is chosen in the coding sheets are paragraphs. The reason to choose paragraphs is that most of the data are scientific articles and congressional records. In the documents the paragraphs will be numbered and in the coding sheets there will be referred to the number of the paragraph. In this way it is easy to find the particular paragraph in the document. However, when it comes to the congressional hearings sometimes the whole answer or question of a particular person will be labeled as a paragraph. Also, because hearings and testimonies are transcriptions, sentences of a few words, like 'thank you' or 'go on', will not be considered as a paragraph. Otherwise the documents will be confusing and full of numbers. Finally, when it is a hearing or testimony about multiple subjects only the part which is related to private military companies will be used.

The documents can be quite long so choosing sentences as a unit of analysis would be too specific. Still, choosing pages as a unit of analysis would be too general. Multiple categories could be mentioned on one page which could be a problem when it comes to categorizing the different drivers in the coding sheets. By choosing paragraphs this problem is mostly solved and the results should be more specific. When it does happen that multiple

categories are mentioned in one paragraph, this paragraph will be divided in two or more paragraphs.

When it comes to the coded documents each highlighted category will get its own color. The color blue will be used to highlight political drivers, green will be used to highlight economic drivers, and finally the color pink will be used to highlight legal drivers. In this way it becomes clear which parts of the documents refer to which category.

3.4 Quality Criteria

The most important criteria for the evaluation of a case study are construct validity, internal validity, external validity and reliability. These are also known as tests and can be dealt with by using different tactics. Construct validity refers to the operational measures that are used. These operational measures should be used in the right way. This can be achieved by using multiple sources of evidence (Yin, 2009). Internal validity is about the causal relationship. Which means that it determines if the inferences that are made are based on the causality between variables (Bryman, 2012). A way to achieve this is by for example addressing rival explanations (Yin, 2009). External validity is about the generalizability of the study. With a single case study this could be a problem but as mentioned before the outcome of the study can be used for analytical generalization (Yin, 2009). However, the generalization can only be made after direct replications have found place. This is called 'replication logic' and is also used in experiments (Yin, 2009). Finally, reliability is about demonstrating the operations of a study so if the study is repeated it leads to the same results. This can be achieved by using a case study protocol in which every step of the conducted research can be found (Yin, 2009).

In order to make sure that this research will be reliable and valid the method of content analysis is chosen. The reason for choosing this method is that explicitly formulated procedures are used in order to analyze the data, for example by using a codebook. This also makes it possible to replicate this research. Like mentioned before there could be different kind of drivers for a government to use PMCs in conflicts. This explanatory research will examine if these drivers also applied to the U.S. government when they decided to use PMCs in the Iraq War. One of the limitations of this research can be the limited time that is provided to conduct this research. In order to deal with this problem only one country and one conflict is chosen to study. Another potential limitation could be the data that are available. As Kinsey (2006) mentioned in his book '*Corporate Soldiers and International Security*' the private military domain is an industry that is surrounded by secrecy. This is also a reason for choosing

to conduct a content analysis to analyze different kind of data from different kind of sources. Furthermore, it is possible to use two kind of methods because they are not necessarily mutually exclusive (Yin, 2009). In the research on the use of PMCs by the U.S. in the Iraq War both methods can have their own specific advantages.

4. Analysis

4.1 Political drivers for the use of PMCs in the Iraq War

Based on the theory in section 2.4 there are different possible political drivers for the use of PMCs. In this section the political drivers will be analyzed whereby the first two political drivers have a more negative angle while the latter two have a positive angle on the use of PMCs by the U.S. in the Iraq War. The possible political drivers behind the use of PMCs are:

1. PMCs can be used for engaging in conflicts without domestic or international protests.
2. PMCs can be used in conflicts while maintaining plausible deniability.
3. PMCs are used to provide valuable (missing) skills
4. PMCs are used to make the United States Department of Defense (DoD) agile and flexible in dealing with the modernization of warfare.

So, first of all a reason for the use of PMCs could be to minimize domestic or international protests. This is a political driver which is hard to find in public documents because it is quite a sensitive topic. However, Singer (2004) claims that the motivations behind the use of PMCs in the Iraq War are based on minimizing political costs instead of minimizing financial costs. According to Singer (2004) there are situations in which the government did not even look if a contract would save money but instead took measures

to ensure it would not save money at all. This is different when it comes to the political costs. With the hiring of PMCs, the U.S. government has the opportunity to minimize political costs. This becomes even more interesting when there is a presidential campaign going on. Which was

“ In fact, this figure was long passed if they would have included the private military contractors, who were killed in action, in the number of casualties.”

the case at the moment that the U.S. government sent 20.000 private military contractors to Iraq. If the U.S. government wanted to send more troops, they would have to expand the regular force that was already deployed, had to call up more National Guard or reserve troops or even have to negotiate with members of the Coalition or the UN. Especially the last two options would lead to tough political negotiations and could lead to a situation in which the U.S. government would have to make compromises. Another important factor for the use of private military contractors is the fact that when they become casualties of war it does not reach the news. In the summer of 2004, there was a huge news item

about the number of casualties that had been killed in action and that it passed the 1000. This created quite some pressure on the Bush administration. In fact, this figure was long passed if they would have included the private military contractors, who were killed in action, in the number of casualties (Singer, 2004). Another reason for the use of private military contractors was to avert possible criticism on how U.S. tax money was spent. Private companies were used for the reconstruction of Iraq and if PMCs were not used to provide protective services U.S. soldiers should have to fulfill those tasks. When this would be the case the U.S. tax money was spent to protect these private profit-making companies (Elsea et al., 2008).

The second political driver, where PMCs are used in conflicts while maintaining plausible deniability, is closely related to the first one. What became clear from *'the Congressional Research Service Report: Private Security Contractors in Iraq: Background, Legal Status, and Other Issues'* by Elsea, Schwartz & Nakamura (2008) was that Members of Congress have raised questions about the way in which the State Department handled the issues related to the oversight of private military contractors in Iraq. The Congress not only blamed the State Department for the poor performance on supervising PMCs but also the way in which the State Department investigated private military contractors who were accused of killing innocent Iraqi civilians. Besides the alleged killing of innocent Iraqi civilians there are situations in which it is proven that private military contractors killed innocent civilians. Still the State Department, according to Congress, showed a general lack of concern about who can be held accountable (Elsea et al., 2008). When the State Department is responsible for the oversight of PMCs in Iraq but they do not investigate accusations of misbehavior by private military contractors properly it looks like they do not want to know what exactly happened. While according to many this undermines U.S. foreign policy in general but especially the mission in Iraq (Elsea et al., 2008). During the war in Iraq many in the military had raised concerns about in particular the shooting incidents involving Blackwater. An Iraqi Interior Ministry official discussed the actions of Blackwater prior to the 16 September killings that Blackwater plays an important part in the hatred of Iraqis towards Americans. In multiple occasions Blackwater personnel had been ignoring Iraqi law and customs. According to this Iraqi official, Iraqi citizens do not see them as private military contractors but only as Americans (Elsea et al., 2008). So, while the relationship between the military and the Iraqis is an important aspect of the mission in Iraq it looks like the State Department turned a blind eye when it came to the misbehavior of private military contractors.

“While the relationship between the military and the Iraqis is an important aspect of the mission in Iraq it looks like the State Department turned a blind eye when it came to the misbehavior of private military contractors.”

A more positive angle on the use of PMCs by the U.S. government during the Iraq War is related to the skills PMCs can provide. Many PMCs employees represent the top of the military branch. In Iraq a lot of recently retired U.S. special forces or ex-British SAS soldiers were active as private contractors (Singer, 2004). These soldiers still possess the discipline, professionalism,

“Based on interviews in the military and PMC industry the best logisticians and combat skills trainers in the world are active in the PMC industry.”

and esprit de corps that the U.S. military demands from its soldiers. An advantage of the private military branch is that it is easier to maintain top quality people in the field because when it comes to the U.S. military organizational structure it is required to rotate soldiers regularly. This means that certain quality within the military will disappear. While on the contrary the private security branch is able to keep high quality personnel in the market indefinitely. This provides PMCs with the opportunity to keep high standards because they can choose its personnel not only from a larger competitive pool and they can attract employees from all over the world, even former employees of elite forces from other countries or former police personnel (Elsea et al., 2008). Based on interviews in the military and PMC industry the best logisticians and combat skills trainers in the world are active in the PMC industry (Singer, 2004). This could explain the reason why the U.S. government hired PMCs for the training of the Iraqi police force (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006). Furthermore, in 2007, from January 1 till September 18, PMCs conducted around 3000 missions. These missions involved the providing of security and the escorting of American diplomats or visitors outside the Green Zone in Baghdad. There were 77

**“I personally benefitted from Blackwater and other private security details ... and witnessed first hand their professionalism”
- David M. Satterfield**

incidents in which private security personnel had to use weapons. While for example, 30 Blackwater employees died while fulfilling their security tasks, not a single American has been killed or seriously injured while he or she was escorted by Blackwater personnel (Elsea et al., 2008). Ambassador David M. Satterfield, who was Deputy Chief of Mission at the U.S. embassy in Baghdad from May 2005 till July 2006, even stated that he had *‘personally benefitted from Blackwater and other private security details ... and witnessed first hand their professionalism’* (Elsea et al., 2008, p. 40).

Besides the fact that PMCs fulfill the security needs they have also served a variation of other interests. During the reconstruction phase in Iraq military commanders had also some complications with the use of private security guards. Private security guards were hired to protect individuals, transport convoys, and property, but according to news reports these guards showed a lack of sympathy towards the Iraqi population. For the mission in Iraq this kind of behavior is problematic, because in

order to successfully carry out the post hostilities operations it is important that the Iraqi population treats the U.S. as friend and not as foe. Based on these reports it became clear that these incidents involved contractors with an American nationality (Elsea et al., 2008). In order to deal with this problem private contractors with an Iraqi nationality were hired to carry out certain tasks. Because *'the use of private contractors provides a cultural and linguistic advantage over the use of U.S. soldiers and ameliorates much potential friction with the local populations'* (Elsea et al., 2008, p. 36) So, a significant amount of private security contractors that were used in Iraq were Iraqis in order to minimize the chance on friction with local populations (Elsea et al., 2008).

Based on the research *'Hired guns: Views about armed contractors in Operation Iraqi Freedom'* by Cotton, Petersohn, Dunigan, Burkhart, Zander-Cotugno, O'Connell & Webber (2010) military personnel think that PMCs provide valuable skill sets to the U.S. government. A survey was held among military personnel with the question if private military contractors add valuable skills to the military. 92 percent of military personnel who had experience with private military personnel had given the answer 'sometimes', 'often', or 'always' and of the military personnel without experience with private military personnel this was 93 percent. So, both groups saw the contribution of PMCs in this area as positive and when it comes to the diplomatic group of this research, which consists of State Department personnel, they valued the additional skill sets of private military personnel even more (Cotton et al., 2010).

"The use of private contractors provides a cultural and linguistic advantage over the use of U.S. soldiers and ameliorates much potential friction with the local populations."

The last political driver that will be examined in this section is if the U.S. government used PMCs in order to make the United States Department of Defense (DoD) agile and flexible in dealing with the modernization of warfare. There are several observations in which it becomes clear that the U.S. government saw opportunities within the PMC industry to meet the demands related to agility and flexibility. In 2008 the U.S. Government Accountability Office (GAO), which is an independent, nonpartisan agency working for the Congress, made a formal statement in which it stated that PMCs are necessary to the mission in Iraq (Cotton et al., 2010; U.S. Government Accountability Office. n.d.). Also, a high-official in the DoD stated in a confidential interview in 2006 that the DoD *'need [private security] contractors. They are enablers'* (Cotton et al., 2010, p. 57). And Department of State Deputy Assistant Secretary Greg Starr stated in a testimony to Congress, which is more related to this political driver, *'we could not have trained and hired new agents to meet this requirement as rapidly as the contractors met the requirement even if we had the funding . . . available. Meeting this relatively short duration requirement using competitively bid contractors along with establishing high*

“Normally training, recruiting and hiring a DS agent takes about two years, while with private contractors this only takes 90 to 120 days.”

standards and requirements is the best possible solution for these circumstances’ (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 45-46). So, the DoD could not have trained and hired new agents to meet the requirement of security related operations as rapidly as the contractors met the requirement (Cotton et al., 2010; Private Security Firms Standards, Cooperation and Coordination on the Battlefield 2006). During the Iraq War the number of security personnel in Iraq alone was higher than all the diplomatic security agents the U.S. had globally. Because of the PMCs the Diplomatic Security (DS) had the possibility to increase their capability and to meet the security needs in a short period of time. Normally training, recruiting and hiring a DS agent takes about two years, while with private contractors this only takes 90 to 120 days (Elsea et al., 2008).

4.2 Economic drivers for the use of PMCs in the Iraq War

Based on the theory in section 2.4 there are different possible economic drivers for the use of PMCs. In this section these economic drivers behind the use of PMCs by the U.S. in the Iraq War will be analyzed. The possible economic drivers behind the use of PMCs are:

1. PMCs are used to meet the change in the demand for security
2. PMCs are more efficient and cheaper in their use (i.e. cost-effectiveness).
3. PMCs are used by the DoD so they can focus its resources into the combat arms.

“What happened was that the Iraqi Army as a whole ceased to exist.”

The goal of the U.S. government was to remove Saddam his regime and to establish a new Iraqi government. On 1 May when Bush congratulated the U.S. forces on their success while standing beneath a massive banner with the words “*Mission Accomplished*”, this is when the phase of post-hostilities operations started. The first problem for the U.S. government was that there was no government, but more important there was no Iraqi police or military force (Stanley, 2015). This led to a situation in which the U.S. had to rebuild and reorganize the whole country without support from the host-nation. In the planning of phase 4 the U.S. government expected that of the 715.000 men who served in the Iraqi army 400.000 would surrender and could be employed on reconstruction projects and to provide security. But what happened was that the Iraqi Army as a whole ceased to exist (Stanley, 2015). This had a huge impact on the demand for security, which is the first economic driver that will be analyzed.

Since the early 1990s the U.S. military was downsized (Elsea et al., 2008). When taking a look at the number of active U.S. military in 2002 this was around 1.4 million personnel while in 1989 the size of the military was around 2.1 million personnel. During operation Iraqi Freedom the U.S. military *'increased the use of PMCs to fill the shortfalls in personnel that were available to provide logistics and security'* (Stanley, 2015, p. 150).

The number of PMCs that are hired by the DoD vary significantly. It depends on multiple factors like troop strength and operational need (Elsea et al., 2008). During the Iraq War PMCs were seen vital to the U.S. to protect many Iraqi and U.S. officials and government facilities (Elsea et al., 2008). Defense analysts see PMCs as an essential force multiplier to deal with the downsizing of the U.S. military (Elsea et al., 2008). The military also uses PMCs mostly as force multipliers (Cotton et al., 2010). Based on the research by Cotton et al. (2010) military and State Department personnel tend to *'believe strongly that PMCs do provide the needed surge capacity'* (p. 59). An example of a situation in which PMCs provide this need was in 2004 when only two firms placed around 2,000 employees in Iraq. This force is equal to the size of three military battalions. And when in 2007 the U.S. government increased the number of troops PMCs *'conducted a parallel surge'* (p. 57) in which they did not only provide extra manpower but also expensive armor (Cotton et al., 2010). Also, based on the same research, the State Department respondents found that PMCs *'were critical for the protection of their personnel and for the provision of organic capabilities which was not otherwise available in sufficient numbers'* (Cotton et al., 2010, p. 64). When, for example, the U.S. opened its embassy in Baghdad the Diplomatic Security Service took over the responsibilities from the military which were related to the provision of security. While this embassy became one of the largest embassies that the U.S. has, it became clear that the DS was not able to take over these responsibilities in combination with other services they provide all over the world. In order to meet this shortfall, the DS decided to hire Blackwater USA to provide security to this new embassy and its personnel (Elsea et al., 2008).

There are more specific events that occurred during the Iraq War which led to a change in demand for security. First of all, because of the fact that the Iraqi Security forces were dissolved they could not provide security till 2006 which created a situation in which U.S. and Coalition forces did not have adequate troops to cover all the work (Stanley, 2015). Without support from the host-nation the U.S. military relied heavily on PMCs for support and because of the

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“PMCs were critical for the protection of their personnel and for the provision of organic capabilities which was not otherwise available in sufficient numbers.”

“The U.S. government had not much of a choice to turn to the private military industry to provide logistic support and security.”

force cap of 160.000 military troops the U.S. government had not much of a choice to turn to the private military industry to provide logistic support and security (Stanley, 2015). It has never happened before that in a war so many private contractors have been utilized to perform critical security and military needs. The estimations lie around the use of 20.000 private military personnel (Congress.gov., 2005). PMCs were also used before the invasion to provide field training and also to provide logistics and support to U.S. and Coalition forces. For example, the massive military base at Camp Doha in Kuwait was not only built by private contractors but also operated and guarded. Camp Doha was the launchpad for the invasion of Iraq (Singer, 2004). Based on the report by Elsea et al. (2008) *‘the U.S. military would not have sufficient capabilities to carry out an operation of the scale of Iraq without private contractors according to many analysts’* (p. 36). Carlson (2016), a reporter for the Esquire, confirmed this based on his experience during his time in Iraq. He stated that *‘if the goal is to control the country, there are not enough American forces in Iraq. If the goal is to rebuild it, there could never be enough. The U.S. military simply doesn’t have the manpower. As it is, the Pentagon could not fight even a small war without the considerable help of civilian contractors’* (para. 29). So, PMCs have been used to fill the gap in troop strength but also for different kind of tasks and jobs that U.S. forces preferred not to carry out (Singer, 2004).

Secondly, after the combat phase the U.S. built multiple military bases throughout Iraq. These military bases required base support and sustainment, which was provided by PMCs. This led to a significant increase in the use of PMCs in the postcombat phase (Stanley, 2015).

Furthermore, an important factor for the increase of the security demand was that the U.S. government expected the military phase would end in 2003. The planning was based on the fact that the DoD would hand over its responsibilities with regard to Iraq to the CPA after the combat phase. What they did not foresee was that a full-blown insurgency, the increase of the level of violence, and the massive scale of reconstructions made them have to maintain their responsibility for operations for an increased amount of time (Stanley, 2015). What became clear from a rapport by the GAO was that the U.S. government thought the reconstructions would

“If the goal is to control the country, there are not enough American forces in Iraq. If the goal is to rebuild it, there could never be enough.”

find place in a *‘environment with little threat from insurgents or terrorists’* and had *‘made few or no plans for any other condition’* (Cotton et al., 2010, p. 11-12). So, when the security situation in Iraq escalated the U.S. forces were unable to meet this unforeseen demand for security. This created a security gap which was filled by PMCs (Cotton et al., 2010). Because of the increased violence

PMCs were used for the protection of *'critical infrastructure, reconstruction projects, and diplomats'* (Stanley, 2015, p. 147-148). *'The Defense Department [also] required assistance from the private security industry to provide logistics and security over a much longer period of time than expected. The massive reconstruction effort in Iraq, undertaken by the CPA, also required a significant use of private military contractors. As a result of the overwhelming level of violence the Defense Department, the State Department, and private military companies were required to increase their use of private security contractors to protect their personnel and projects'* (Stanley, 2015, p. 145). The State Department as well as the DoD report *'significant benefits from the use of private security contractors'* (Elsea et al., 2008, p. 35). For the State Department PMCs are very useful in order to meet the high demand for security, as result of the surge, in a short period of time. Condoleezza Rice, who was Secretary of State during the second term of the Bush administration, said in a statement to Congress that the State Department *'cannot take all of those [security] tasks with our own diplomatic security, nor can the military do that'* (p. 21) and therefore was *'left with the need for private contractors'* (p. 41) (The State Department and the Iraq War, 2007). To the U.S. military PMCs contribute a small but important part of the force multiplier effect to accomplish missions (Elsea et al., 2008). In a statement before Congress in 2006 Alan L. Chvotkin, who is the executive vice president and counsel of the Professional Services Council (PSC), the principal national trade association of the government technology and professional services industry, said that for the *'size of the available work force to meet the number of projects that are underway'* there are *'simply insufficient military'* (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 177).

Finally, even when it was known that the U.S. forces would leave Iraq Grant S. Green, who was a member of the Commission on Wartime Contracting in Iraq and Afghanistan, expected to rely on private contractors who would remain there *'to close down bases or to pass them on to the Iraqis'* (Commission on Wartime Contracting: Interim Findings and Path Forward, 2009, p. 163). He thought PMCs would still have to play an important part in the Iraq War. He said that although *'we see a decline in the military, there is not going to be a proportional decline in contractors. In fact, it might go the over way depending on the activity'* (Commission on Wartime Contracting: Interim Findings and Path Forward, 2009, p. 163). So even when the Iraq War was official over the demand for PMCs stayed.

The second economic driver is about the use of PMCs by the U.S. government in the Iraq War because they are more efficient

“We believe that we cannot take on all of those tasks with our own diplomatic security, nor can the military do that. So we are left with the need for private contractors” - Condoleezza Rice

“You can use it in a kind of an accordion-like way to increase when you need and to decrease when you don’t need.” - Condoleezza Rice

and cheaper in their use. Based on the analyzed documents there are different indicators that confirm that the U.S. government used PMCs because of their cost-effectiveness. First of all, John F. Tierney, a Representative in Congress from the State of Massachusetts, stated that there was a general thought among the Bush administration that it was cheaper to contract out parts of the military without evidence that it was actually cheaper (Commission on Wartime Contracting: Interim Findings and Path Forward, 2009).

A more specific argument for the use of PMCs which is related to their cost-effectiveness is the flexibility when it comes to hiring a PMC. Secretary Rice states that the cost-benefit is very good because of the flexibility in terms of ending a contract (The State Department and the Iraq War, 2007). The advantage of PMCs over permanent employees is that *‘you can use it in a kind of an accordion-like way to increase when you need and to decrease when you don’t need’* (The State Department and the Iraq War, 2007, p. 42). In August 2008, the Congressional Budget Office (CBO) published a report in which it compared the costs of a particular contract between Blackwater and the State Department to the costs of having the U.S. military force carry out the same functions. The report estimated that *‘the costs of a PMC did not differ significantly from the costs of a comparable military unit’* (Elsea et al., 2008, p. 50). Another aspect that this report pointed out was *‘that in peacetime there would be carrying costs for maintaining the military unit whereas a contract with a PMC could be terminated’* (Elsea et al., 2008, p. 50). So, at peacetime a military unit would still remain in the force structure which costs money while with a PMC it is possible not to renew the contract. This kind of flexibility makes it also possible for the State Department to rapidly expand its force but also to reduce security forces when

“We only pay for when they’re there. And when we want to dump them, we can just get rid of them. There is a cost-effective aspect to this.” - Christopher Shays

there is a change in requirements (Elsea et al., 2008). Ignacio Balderas, former CEO and current Board of Directors member of Triple Canopy, confirmed this and said in a statement to Congress that the DoD has to deal with a long-term plan which involves all kinds of extra costs while with private contractors it is possible to end *‘that contract tomorrow, and that person’s out of work’* (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 176). In the same hearing Christopher Shays, who was a Representative in Congress from the State of Connecticut, confirmed this and said *‘we only pay for when they’re there. And when we want to dump them, we can just get rid of them. There is a cost-effective aspect to this’* (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 178-179).

Another reason to use PMCs which is related to the cost-effectiveness is that there are no extra costs when hiring private contractors. Like mentioned before in peacetime it is possible just not to renew a contract but what is also a big difference between using private contractors and the military is the fact that the U.S. government does not need to pay for benefits. These benefits could be health insurance or long-term liabilities such as disability compensation and pensions (Elsea et al., 2008). As Balderas explained to Congress *'there is no retirement plan for [a private contractor]. He has to get his own health insurance. His family, where an individual has always been mentioned, a military person already has that. We're not talking long-term costs either. Looking at the military, it is that an individual has a retirement plan'* (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 176). When Patrick T. McHenry, who was a Member of the U.S. House of Representatives from North Carolina's 10th district, during a hearing stated that *'the idea is that [the U.S. is] in Iraq not on a permanent basis, therefore, you do not hire career government workers to be there on a 30-year basis, for instance, with retirement benefits and things of that sort'*, Secretary Rice confirmed this (The State Department and the Iraq War, 2007, p. 41).

There are also arguments related to the cost-effectiveness for the use of PMCs with regard to how contracts are awarded and the possibilities regarding the use of local employees. First of all, the U.S. government used a system in which contracts were awarded to PMCs on competitive basis and they all included fixed price agreements (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006). Michael J. Thibault, Commissioner and co-chair in the Commission on Wartime Contracting, made a statement that competition *'is a very good thing for the government in terms of price and costs'* (Commission on Wartime Contracting: Interim Findings and Path Forward, 2009, p. 163). Another argument for the use of PMCs is that they are cheaper than U.S. military because they have the possibility to employ locals and third-country nationals. A lot of PMCs hired locals in Iraq because they do not have to transport, feed or house them and because they can pay lower wages compared to U.S. servicemembers. Also Schwartz (as mentioned by Stanley, 2015, p. 139) mentioned *'that third-country nationals are generally cheaper than U.S. Coalition contractors, and local nationals are generally the least expensive to hire, in part because there are no large overhead costs related to transportation, housing, and sustenance.'* In this way they were able to keep the total costs low (Elsea et al., 2008). James Kunder, Assistant Administrator for the Near East and Africa, U.S. Agency for International Development, said they adapted some techniques in order to make sure U.S. taxpayer money is spent well. In Iraq this meant hiring local personnel (Private Security Firms Standards, Cooperation and Coordination

on the Battlefield, 2006). As a result, PMCs have employed more than 30.000 armed employees who were working for a variety of government and private sector clients (Stanley, 2015).

The third and last possible economic driver for the use of PMCs in

“We need to get people out of those jobs, get civilians in them, and get our military into the jobs that are the highest payoff in terms of the military skills.” - Tommy R. Franks

Iraq is so the DoD can focus its resources into the combat arms. General Tommy R. Franks had a great share in the tactics regarding the rapid occupation of Baghdad. In 2003, after Iraq was occupied, an interview was published. In that interview General Franks discussed the jobs that U.S. military have to carry out. He said: ‘We

need to get people out of those jobs, get civilians in them, and get our military into the jobs that are the highest payoff in terms of the military skills’ (Congress.gov., 2005, par. 23). A year later, in 2004, the DoD had hired more than 24.000 private contractors to provide services to the U.S. forces under the Logistics Civil Augmentation Program (LOGCAP) (Stanley, 2015). Those 24.000 employees ‘*freed up critical military manpower for other duties and reduced the number of combat service support soldiers needed for support operations’* (Stanley, 2015, p. 138). The difference between the Iraq War and the other conflicts was that private contractors were normally used in generally stable environments. However, according to Leon Sharon, a representative of Falcon

“Those 24.000 employees freed up critical military manpower for other duties and reduced the number of combat service support soldiers needed for support operations.”

Security, private contractors produce the same effect if they are deployed in unstable settings, like the Iraq War (Cotton et al., 2010). In this case this would lead to the opportunity to use private contractors to free up resources which can be used for military purposes. As Leon Sharon explains: ‘*All of the work that’s being conducted here in Iraq by private security companies*

would have to be conducted by somebody, and that somebody is U.S. military personnel. . . . If you had 500 soldiers here, that’s 500 less soldiers that you have on the battlefield’ (Cotton et al., 2010, p. 45). Carlson (2016) also noticed during his time in Iraq that ‘*many of [the private contractors] are good in what they do. And they free soldiers to do what soldiers do best. With civilians handling a portion of the logistics, the Pentagon can focus on the purely combative elements of war fighting’* (par. 31). He even found out that these private contractors do some of the fighting as well. General David Petraeus emphasizes the contribution of private contractors in the Iraq War and confirmed they had a great share in freeing up resources and manpower. He testified in 2007 before Congress: ‘*[T]ens of thousands of contract security forces and ministerial security forces... do in fact guard facilities and secure institutions and so forth that our forces, coalition or Iraqi forces, would otherwise have to guard and secure’* (Cotton et al., 2010, p. 46).

4.3 Legal drivers for the use of PMCs in the Iraq War

Based on the theory in section 2.4 there are different possible legal drivers for the use of PMCs. In this section these legal drivers behind the use of PMCs by the U.S. in the Iraq will be analyzed. The possible legal drivers are:

1. PMCs are used because of the lack of accountability and oversight.
2. PMCs are used to circumvent legislative limits.

In Iraq the DoD used the same procedures when it comes to the contracting of PMCs as it did with regard to Operation Enduring Freedom. However, there were some differences as a result of new laws and regulations. There were three levels of legal authority under which private contractors operated. These were the international order of the laws and usages of war and the resolutions of the United Nations Security Council, U.S. law and Iraqi Law. The Iraqi law included the order of the CPA (Stanley, 2015). However, when analyzing the Iraq War and the use of PMCs it turned out that there are several indications that the U.S. government used PMCs because of the lack of accountability and oversight, which is the first legal driver that will be discussed.

First of all, there turns out to be a lack of clear laws and resolution in general when it comes to PMCs. There were international laws and U.S. laws that seems to be applicable to PMCs in Iraq, but it turned out that both have their *'definitional and structural weaknesses'* (Cotton et al., 2010, p. 15). This makes the laws difficult to apply on the private contractors who were active in Iraq. For example, there was no standard procedure for prosecuting private contractors who operated in a particular country, come from another country and work for a company which is located in a third country (Cotton et al., 2010). Another more specific action by the U.S. government made it even impossible to prosecute U.S. and third-country national private contractors under Iraqi law. This was done by the CPA Order 17 which made these private contractors immune for prosecution between 2003 and 2008 (Cotton et al., 2010). On January 1, 2009, a new agreement was made between the U.S. and Iraqi government. This was article 12 of the Status of Forces Agreement (SOFA) and stated: *'Iraq shall have the primary right to exercise jurisdiction over United States contractors and United States contractor employees'* (Cotton et al., 2010, p. 15) However based on the definition that is used by SOFA contractors are: *'non-Iraqi persons or legal entities, and their employees, who are citizens of the United States or a third country, and who are in Iraq to supply goods, services, and security in Iraq to or on behalf of the United States Forces under a contract or subcontract*

“The CPA Order 17 made these private contractors immune for prosecution between 2003 and 2008.”

with or for the United States Forces' (Cotton et al., 2010, p. 15). Based on this definition the article would only be applicable to

“The legal framework for providing oversight over personal protective service contractors is in-adequate in that the panel is not aware of any basis for holding non-Department of Defense contractors accountable under U.S. law.” - Paul W. Hodes

private contractors who are working for the DoD while there are more entities who hire private contractors, for example the Department of State or United States Agency for International Development (USAID) which are also part of the U.S. government (Cotton et al., 2010). Paul W. Hodes, former U.S. Representative for New Hampshire's 2nd congressional district, was member of the Committee on

Oversight and Government Reform. In a congressional hearing he concluded that the *'legal framework for providing oversight over personal protective service contractors is in-adequate in that the panel is not aware of any basis for holding non-Department of Defense contractors accountable under U.S. law'* (The State Department and the Iraq War, 2007, p. 47). While there are some laws that could be applied to private contractors, in reality it looks like it is too difficult to prosecute them. In combination with the reluctance of prosecuting private contractors it led to an environment between 2003 and 2008 in which there was impunity for private contractors in Iraq (Cotton et al., 2010).

Secondly, it turned out that the oversight on PMCs during the Iraq War was deficient. Based on a report from Ambassador Patrick F. Kennedy it became clear that the oversight of DoD regarding PMCs was *'seriously deficient'* (The State Department and the Iraq War, 2007, p. 43) In this report several conclusions were made. It turned out that when there were incidents involving the discharge of weapons, the investigations were not broad enough and information was not gathered quickly and thoroughly. Also, the process of reporting incidents, including those of where U.S. military were involved, was not comprehensive enough. The final important conclusion of the report involved the information sharing between the Embassy and the multinational force in

“In this country no one is above the law, yet the contractors, according to your panel, have been above the law for the past 4 years.” - Paul W. Hodes

Iraq. The Embassy did not share robust information about the details of certain incidents which could have an impact on the relationship between the U.S. and Iraq (The State Department and the Iraq War, 2007). Hodes concluded based on the same report that it turned out that Blackwater

and other private contractors have turned out acting above the law since the beginning of the war. He states: *'In this country no one is above the law, yet the contractors, according to your panel, have been above the law for the past 4 years'* (The State Department and the Iraq War, 2007, p. 47). Also, based on the Congressional hearing regarding Private Security Firms Standards, Cooperation and Coordination on the Battlefield (2006) it turns

out that the Congress has been separated from the oversight on thousands of people who were working in Iraq and conducted activities. What could partly explain this lack of oversight is that at the beginning when the DoD rewarded a PMC with a contract, they did not issue any guidelines or rules of conduct. The first contracting clauses were used in 2005, while there were already thousands of private contractors active in Iraq (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006). Carlson (2016) provides an example which illustrates the way in which the DoD handled its contracts. He said that to find a gun in Iraq is not hard *'but once a contractor gets them, he receives virtually no instructions from the U.S. government on when and how he is allowed to use them'* (par. 64). A private contractor told Carlson that when he was in a meeting with chief administrator Paul Bremer, Bremer told him the CPA could not provide safety for everyone. So, he had only one request: *'Identify your target before you engage—know whom you're shooting at'* (Carlson, 2016, par. 64). Additionally, there was a lack of oversight and accountability when it comes to subcontractors. While 70 percent of the contract work is done by subcontractors the government had very *'little visibility into their operations'* (Commission on Wartime Contracting: Interim Findings and Path Forward, 2009, p. 132). Based on a report to Congress it turned out that it was hard to register local nationals into the databases (Stanley, 2015). Finally, the number of private contractors increased every year during the Iraq War but the contracting officer's representatives (CORs) decreased due to time. While these were the people who were responsible for supervising contracted work. According to Elsea et al., (2008) *'the number of such representatives has been cut sharply in the Department of Defense and State, while the number of contractors has escalated'* (p. 42).

Furthermore, there are some indicators that the U.S. government tried to maintain secrecy around the use of PMCs. In the first years of the Iraq War there was only little information available regarding the hiring of PMCs by the DoD and State Department (Elsea et al., 2008). The U.S. government did not track the number of PMC employees who were working in Iraq on its behalf or the casualties among the private contractors. The same goes for the contracts related to PMCs which were treated as proprietary. This means that they were not open to public scrutiny like other public documents (Singer, 2004). There are different examples of cases where additional information on PMCs was requested but

“Once a contractor gets them, he receives virtually no instructions from the U.S. government on when and how he is allowed to use them. He had only one request: Identify your target before you engage—know whom you’re shooting at.”

“The number of contracting officer’s representatives has been cut sharply in the Department of Defense and State, while the number of contractors has escalated.”

only partly provided. In 2004 Marcia C. Kaptur, Member of the House of Representatives, requested detailed information from the CPA about the use of PMCs. She requested this information together with twelve of her colleagues. However, the information they got was limited. In 2005, in a statement to Congress, she said: *'the Coalition Provisional Authority (CPA) compiled a list of 60 different firms employing a total of 20,000 personnel (including U.S. citizens, Iraqis and third-country nationals). No additional information. No specifics on the contracts that were awarded. Just a list'* (Congress.gov., 2005, par. 19). In the same hearing she states that members of the Congress depend on news articles and press releases when it comes to information about PMCs. She describes it as: *'my colleagues and I are forced to rely on the tabulation of news articles and press releases to keep on top of what companies are operating in theater, what duties they may or may not be performing and just how much money the United States government is paying them'* (Congress.gov., 2005, par. 20) Also, in 2006 Henry A. Waxman, former Member of the House of Representatives, stated to Congress that he requested a cost accounting that would show how much subcontractors were charging and he requested copies of documents which were related to the costs of subcontractors, but he stated that *'the Department would not provide the information'* (Private Security Firms

“My colleagues and I are forced to rely on the tabulation of news articles and press releases to keep on top of what companies are operating in theater, what duties they may or may not be performing and just how much money the United States government is paying them.” - Marcia C. Kaptur

Standards, Cooperation and Coordination on the Battlefield, 2006, p. 8). And when Janice D. Schakowsky, who is the U.S. Representative for Illinois's 9th congressional district, offered an amendment to the Defense Authorization Act for fiscal year 2007 that would improve congressional oversight on private contractors in Iraq. However, the Republican majority did not cooperate to expand oversight on PMCs, she stated that *'the Republican majority refused to allow me to include language asking for: The number of contracts in existence; the total cost of these contracts; the total number*

of contractors in Iraq and Afghanistan; the number of dead and wounded contractors; a report on the laws that might have been broken by contractors; a list of disciplinary actions taken against contractors; copy of contracts issued in excess of \$100 million. None of those became part of the law' (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 12). During the Iraq War it turned out that there was also some secrecy when it came to the use of weapons by private contractors. The CPA acknowledged that private contractors must carry weapons and there were some rules about what kind of weapons were allowed, but private contractors were not able to buy weapons from the U.S. government. As Carlson (2016) explains it: *'the authority has made no provisions for legitimately*

purchasing guns and ammunition. A contractor working in Iraq has to have firearms, but he can't buy any from the U.S. military. Nor can he easily ship his own into the country from the United States. His only practical option is to find guns on the local black market—"Our own personal gun buyback program," as Bill put it' (par. 61). Bill was one of the private contractors active in Iraq during Carlson his stay.

By analyzing the documents, it also turned out that there were two cases in which Chris Van Hollen and Janice Schakowsky, both Member of the U.S. House of Representatives, are blaming the U.S. in 2006 of turning over important responsibilities to private contractors. U.S. Representative Schakowsky expressed her concerns about the fact that the U.S. government contracted PMCs to carry out sensitive operations in Iraq. She thinks the accountability and liability of these operations should fall under the U.S. government. In a Congressional hearing in 2006 she stated: *'I want to tell you that I am very concerned that we have operations going on in Iraq, sensitive operations, and that, in fact, the U.S. Government doesn't want to take responsibility for those, wants to push them off on someone else. And I think this notion of accountability and liability and responsibility falls directly on government agencies, particularly given my suspicion that not a single contractor has ever been prosecuted under any law. I just want to raise that concern'* (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 73-74). Van Hollen comes with an example that the U.S. military was looking for interrogators and that they decided to contract it out. It went to the Department of Interior and through some complicated contracting procedures it went to a PMC. U.S. Representative Van Hollen sees this as turning over important responsibilities as he stated that *'because the officials in Interior and Army responsible for the orders did not fully carry out their roles and responsibilities, the contractor was allowed to play a role in the procurement process normally performed by the government. In other words, the Federal Government essentially turned over the responsibilities, governmental responsibilities to a private contractor'* (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 11-12).

Finally, there are some observations made which are related to the aspect of accountability of the first legal driver of the use of PMCs by the U.S. in Iraq. Most of these observations exist of examples of cases in which many found that there was no adequate punishment for the misbehavior of private contractors. In 2000 the Military Extraterritorial Jurisdiction Act (MEJA), was passed. This would made it possible to prosecute private military

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“The basic question of accountability is accountability before the law. And accountability of someone is unlawfully taking another person’s life that has to be the ultimate accountability.”

contractors under U.S. law. However, since its passage there have not been many successful convictions involving DoD contractors working in Iraq (Elsea et al., 2008). Dennis J. Kucinich, a member

of the U.S. House of Representatives and member of the Committee on Government Reform and of the Subcommittee on National Security, Emerging Threats, and International Relations, expressed his concerns in a statement in a Congressional hearing. He asked questions to high placed officials working for the DoD regarding the

prosecution of private contractors who killed Iraqi civilians. Based on their responses Kucinich came to the conclusion that there were no adequate mechanisms to prosecute and punish these private contractors. He concludes that: *‘There doesn’t seem to be any accountability with respect to private contractors and it’s—it really—since the administration is more and more preferring in certain instances private contractors, it would seem that notwithstanding your protestations that subsequent to these reports you are trying to get into a new level of standards, the basic question of accountability is accountability before the law. And accountability of someone is unlawfully taking another person’s life that has to be the ultimate accountability’* (Private Security Firms Standards, Cooperation and Coordination on the Battlefield, 2006, p. 65). An example that illustrates his quote is that there was an incident during Christmas Eve on December 24, 2006 which involved the killing of an Iraqi security guard by a Blackwater employee in the Green Zone in Iraq. This Blackwater employee got drunk during Christmas Eve and shot and killed an

“In one of the e-mails of the State Department it was said that a payment to the families was considered the best way to assure that the Iraqis don’t take the steps, such as telling Blackwater that they are no longer able to work in Iraq.”

Iraqi security guard who was working for the Iraqi Vice President. When this happened the Blackwater employee was not on duty. It turned out that there were no laws in effect which could lead to the prosecution of this man (The State Department and the Iraq War, 2007). While if this happened in the U.S. he would have been arrested, and there would have been a prosecution and conviction. And if the perpetrator would

have been a U.S. military, he would have faced a court-martial. What did happen was that the State Department made sure the contractor left Iraq within 36 hours and insisted Blackwater to pay the family for their loss. The amount of money that was paid to the family as compensation was \$15,000 (The State Department and the Iraq War, 2007). In one of the e-mails of the State Department it was said *‘that a payment to the families was considered the best way to assure that the Iraqis don’t take the steps, such as telling Blackwater that they are no longer able to work in Iraq’* (The State Department and the Iraq War, 2007, p. 68).

The second legal driver is that PMCs are used to circumvent legislative limits. First of all, when Operation Iraqi Freedom started the U.S. was allowed to use 160,000 U.S. soldiers, because of a force cap. As a result, the military leaders had to reduce the combat and logistics forces. They soon realized that there were insufficient forces available to carry out crucial tasks. In order to deal with this problem, they hired PMCs (Stanley, 2015). Military planners assigned U.S. forces to the tasks that were critical for defeating the Iraqi Army, and after that to deal with the insurgency. While PMCs were used for '*logistics support, training assistance, reconstruction, and security*' (Stanley, 2015, p. 159). So, by using PMCs the U.S. military was able to use more troops than the force cap allowed.

Furthermore, based on the observations it looks like the U.S. government had used PMCs to circumvent the Iraqi judicial system. Especially in the beginning of the Iraq War there were no Iraqi legal institutions and coalition laws specifically stated that private contractors are not submitted to these laws (Singer, 2004). The best example is CPA Order Number 17. As mentioned before by implementing CPA Order Number 17 they made it impossible for the Iraqi government to prosecute private contractors (Elsea et al., 2008). Iraqi legal processes against private contractors could only start with permission from the relevant Sending State (Stanley, 2015).

Finally, over time the laws and regulations with regard to PMCs increased. However, Stanley (2015) observed that '*as the limitations and constraints on the private security industry increased, the number of private contractors supporting Operation Iraqi Freedom did not decrease*' (p. 143). It also turned out that these new laws and regulations did not provide full coverage for prosecuting actions of all private contractors. For example, the Military Commissions Act of 2006 prohibits certain behavior related to war crimes. These are defined '*to include torture, cruel or inhuman treatment, performing biological experiments, murder of an individual not taking part in hostilities, mutilation or maiming, intentionally causing serious bodily injury, rape, sexual assault or abuse, and taking hostages*' (Elsea et al., 2008, p. 22). This act provides federal jurisdiction for these crimes when they are committed by or against U.S. nationals or U.S. servicemembers. However, it does not look like it includes foreign nationals who commit war crimes in Iraq. Not even if they are hired by the U.S. government (Elsea et al., 2008).

“As the limitations and constraints on the private security industry increased, the number of private contractors supporting Operation Iraqi Freedom did not decrease.”

5. Discussion

This discussion will start with the testing of the hypotheses in order to provide a clear answer to the main question of this research:

‘To what extent can the use of private military companies by the U.S. in the Iraq War be explained by political, economic and legal drivers?’

After the hypotheses are tested, the research question will be answered. Furthermore, the limitations of this research will be discussed. Finally, the added value of this research will be discussed.

5.1 Testing of hypotheses

Hypothesis 1: *The U.S. government hired PMCs in the War in Iraq to avoid the risk of the political costs that are associated with certain operations.*

The first hypothesis that the U.S. government hired PMCs in the War in Iraq to avoid the risk of the political costs that are associated with certain operations can be confirmed. What became clear from the analyzed documents is that the use of PMCs by the U.S. government led to less domestic protests and provided an opportunity to avoid negotiations with the Coalition or UN. It also turned out that the U.S. government showed a general lack of concern when it came to investigating accusations of misbehavior of private contractors. There are no quotes from U.S. government officials that directly support these findings, however there are several examples of situations in which the use of PMCs led to the avoidance of political costs.

Hypothesis 2: *The U.S. government hired PMCs in the War in Iraq in order to deal with the transformation of modern warfare.*

The second hypothesis is about that the U.S. government hired PMCs in the Iraq War in order to deal with the transformation of modern warfare can be rejected. It turned out that PMCs were not necessarily used to provide (missing) skills related to the technology that comes with modern sophisticated military systems. However, based on interviews in both the military as well as the PMC industry the best logisticians and combat skills trainers are working in the PMC industry. This could explain the

use of PMCs to train the Iraqi police force. Another reason to hire private contractors was that it provides the possibility to use contractors with an Iraqi nationality because they provide cultural and linguistic advantages over the use of contractors with an U.S. nationality. Finally, the U.S. government used PMCs to improve the agility and flexibility of the DoD. PMCs made it possible for the DoD to quickly react to the increased demand for new agents. So, the U.S. government used PMCs to make the DoD agile and flexible and for a variation of other interests but not to provide technical skills related to modern sophisticated military systems.

Hypothesis 3: *The U.S. government used PMCs in the Iraq War because of its cost-effectiveness.*

The third hypothesis that the U.S. government used PMCs in the Iraq War because of its cost-effectiveness can be confirmed. There are several quotes which indicate that PMCs are used because of flexibility in terms of ending a contract and because the government does not need to pay for benefits. This means that in peacetime it is very easy to just terminate the contract there are no extra costs, like health insurance or pensions. In order to improve the cost-effectiveness of PMCs the U.S. government rewarded on competitive basis with fixed price agreements. However, it turned out that the cost-effectiveness was not the only economic driver for the use of PMCs. Another important economic driver for the use of PMCs was to meet the change in demand for security. First of all, the downsizing of the U.S. military is mentioned as an important factor because the U.S. government could not provide enough manpower for all the operations related to Operation Iraqi Freedom, this created shortfalls of personnel. PMCs were used to fill these shortfalls and to meet this demand. This demand was based on multiple factors like troop strength and operational needs. Another important economic driver for the use of PMCs is that the DoD can focus its resources into the combat arms. PMCs were often used in the Iraq War for supportive roles, like providing logistic support or for tasks related to security, to free up military manpower so it could be used for the combative elements of the Iraq War.

Hypothesis 4: *The U.S. government used PMCs because of the flexibility in terms of accountability and impunity.*

The last hypothesis that the U.S. government used PMCs because of the flexibility in terms of accountability and impunity can also be confirmed. The international, U.S. and Iraqi law related to PMCs turned out to have definitional and structural weaknesses. One could argue that this might need some time to improve. However, there is not much evidence in which the U.S. government was trying to improve these regulations on the use of PMCs. CPA

Order 17 even made PMCs immune from prosecution of Iraqi law between 2003 and 2008. In 2009 a new agreement was made between the U.S. government and the Iraqi government in which Iraq would have the primary right to exercise jurisdiction over U.S. contractors. But this new agreement did only include contractors hired by the DoD and did not include the contractors hired by other U.S. government entities or contractors from third countries working for the U.S. government. These actions strongly suggest that the U.S. government was trying to circumvent Iraqi law. Also, the oversight on PMCs was deficient and there are some indicators that the U.S. government tried to maintain the secrecy around the use of PMCs, like not providing comprehensive information when requested. It also turned out that there are several cases in which private contractors were not prosecuted while they should be or did not receive an adequate punishment for their misbehavior. When it comes to accountability Representatives Van Hollen and Schakowsky even blamed the U.S. government for turning over important responsibility to the private sector to avoid accountability. Finally, the U.S. government used PMCs to circumvent legislative limits related to the force cap. By using PMCs, the government was able to use more troops than the force cap allowed.

5.2 Conclusion

So, to what extent can the use of private military companies by the U.S. in the Iraq War be explained by political, economic and legal drivers? It became clear the political drivers for the use of PMCs are to avoid political costs, to maintain plausible deniability, to minimize the chance of friction with local populations, and to make the DoD agile and flexible. What not turned out to be a political driver is the fact that PMCs are used to provide technical skills related to modern sophisticated military systems, but they were used for other types of skills. When it comes to the economic drivers, the use of PMCs can be explained by the fact that PMCs were seen as a necessity to provide the manpower that was needed to meet the change in demand for security. Another important economic driver is that the U.S. government saw PMCs as cost-effective because of the flexibility in terms of ending a contract and the lack of extra costs. The last important economic driver for the use of PMCs was to free up resources which could be used into the combat arms. The legal drivers behind the use of PMCs by the U.S. government was to circumvent Iraqi laws, to turn over responsibilities, and to circumvent the force cap of 160.000 U.S. soldiers.

5.3 Limitations

However, because of the lack of time that is provided for conducting this research only a limited number of documents are analyzed. In order to deal with this problem different documents are used from different sources and from different years. This is done in order to answer the research question as comprehensive as possible. Also, choosing congressional reports as a source contributes to the comprehensiveness of its answer. In one congressional hearing it is possible to find multiple actors with different backgrounds and different political preferences related to PMCs. However, congressional hearings also have its limitations. It turned out that when U.S. government officials had to testify to Congress and the questions became hard, they often referred to the fact that they were not in the possession of the relevant information or that another department was better suited to answer a particular question. When it came to the testimony of persons working in the private sector, they often referred to their legal department. In order to deal with this limitation scientific articles and books were used which contained interviews of government officials to provide further insight in the more secret parts of the subject.

5.4 Added value of this research

First of all, this research is easy to replicate because it is done by conducting a content analysis. The codebook, coded documents and coding sheets can all be used for replicating the results. However, this does not only increase the validity of this research but can also form a basis for further research on how different political, economic and legal drivers can be found for the use of PMCs by a particular government.

Secondly, when it comes to the results of this research it shows that PMCs took away limitations for the U.S. government. For example, no matter how obvious it was that PMCs were used to circumvent the force cap, the U.S. government was able to do this quite easy. Just like the way the U.S. government made sure that Iraqi law did not apply to PMCs. It took around 5 years to change this, and even after these changes there were still loopholes in the laws and regulation regarding PMCs.

Another interesting part of the results of this research is the fact that it shows both sides of the story when it comes to the use of PMCs in the Iraq War. Like mentioned in the introduction, authors tend to promote their own point of view when it comes to the use of PMCs, they are focusing on either the negative or the positive aspects. While this research brings together both aspects because it is based on what has driven the U.S. government to use PMCs. It shows that the use of PMCs can have a more positive angle, like adding missing skills to operations, but also a negative

angle, like maintaining secrecy of certain operations.

Thirdly, what became clear is that in general the use of private security services is beneficial to the U.S. government because it can mitigate the political and economic consequences of an armed conflict. On the other hand, the specific qualities of PMCs also fit the nature of the work requested in Iraq.

Finally, the results of this research should contribute to the theory about the use of PMCs by governments, and in particular the U.S. government. The findings of this research are just based on documents which are open to the public, let alone what could be achieved with access to classified documents. While this may never happen, further research could be done to determine whether these are unique drivers for the use of PMCs by the U.S. in the Iraq War or that they can be applied to other conflicts or even other governments.

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Appendix 1 | Codebook

Code	Category	Definition	Indicators
1	Political driver	Having a strong reason to act according certain political motivations	<ul style="list-style-type: none"> • PMCs are used for engaging in conflicts without domestic or international protests. • PMCs are used in conflicts while maintaining plausible deniability. • PMCs are used to provide valuable (missing) skills. • PMCs are used to make the United States Department of Defense (DoD) agile and flexible in dealing with the modernization of warfare. <p><i>When it is solely used to provide surge capacity, it must be coded as an economic driver.</i></p>
2	Economic driver	Having a strong reason to act according certain economic motivations	<ul style="list-style-type: none"> • PMCs are used to meet the change in the demand for security <i>When it is related to providing valuable (missing) skills, it must be coded as a political driver.</i> • PMCs are used because they are more efficient and cheaper in their use (i.e. cost-effectiveness). • PMCs are used by the DoD so they can focus its resources into the combat arms.
3	Legal driver	Having a strong reason to act according certain legal motivations	<ul style="list-style-type: none"> • It includes the reasons to use PMCs because of the lack of accountability and oversight. • It includes the reasons to use PMCs to circumvent legislative limits.

Rules:

1. The drivers should never overlap.
2. In case multiple drivers are mentioned in one unit of analysis, the unit of analysis will be divided into two or more parts in order to keep it conveniently arranged.

Appendix 2 | Coded documents

Carlson, T. (2016, September 9). Inside the (Not So) Secret Armies of Operation Iraqi Freedom. Retrieved from <https://www.esquire.com/news-politics/a48032/private-armies-operation-iraqi-freedom/>

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