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## **U.S. Reconciliation Efforts in the Iraq War: Private Military Companies Versus Regular Troops**

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U.S. RECONCILIATION EFFORTS IN THE IRAQ WAR:  
PRIVATE MILITARY COMPANIES VERSUS REGULAR TROOPS

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## INTRODUCTION

Before the nineteenth century commercial actors played an important role in warfare. However, when states started to raise citizen armies, mercenaries disappeared both in practice and law (Avant, 2000). The monopoly of state violence became the rule. Only to make way again for private contractors since the start of the 21<sup>st</sup> century. Governments increasingly started to outsource governmental tasks to private companies, including military tasks that are essential in modern warfare. Governments outsource these military projects increasingly to Private Military Companies (PMCs) (Singer, 2002). This is an interesting development, considering the challenge PMCs form to the world order based on states. According to McFate (2017), they might set a precedent for international vigilantism, undermining the exclusive purview of states, namely the use of military power. PMCs are nonstate actors that challenge the dominant norm that states have a monopoly on violence. Interestingly, states are the biggest clients of the PMCs that threaten to undermine them. More and more do we see private military companies fighting alongside regular troops in foreign conflicts. The irony is that PMCs prove to strengthen the seated government when hired by the government (McFate, 2017). This thesis focuses on a case in which a PMC is useful to achieving the U.S. government's foreign policy objectives. Importantly, the employment of PMCs raises questions about accountability and justice, which will be discussed thoroughly in this thesis.

Research has devoted attention to the legal, political, strategic, and ethical implications of outsourcing governmental tasks to PMCs (Chesterman & Lehnardt, 2007; Sossai, 2016; Avant, 2006; Ross, 2011). PMCs operate in an industry that is largely unregulated. PMCs operate in a climate of impunity and formal oversight structures by governments are weak. This is problematic, because PMCs are profit-driven companies with an outcome-oriented mentality which can lead to disproportionately aggressive behavior (Ross, 2011). The misconduct of PMCs and climate of impunity they operate in seems to be a dangerous combination. Their misconduct can damage the lives of civilians and stability in the area the PMCs are operating in (Krahmann, 2016). What is important to understand is how society is affected by the involvement of different actors in international intervention.

International intervention is a tool that is not expected to be stopped with anytime soon, so we need to understand the implications of different kinds of intervention. I want to contribute by deepening our understanding of the ways that governmental strategies in the aftermath of intervention through PMCs influence the lives of civilians. They are the ones who interact with contractors and troops, and who live in the circumstances that contractors and soldiers heavily influence or even create. To have a sharper understanding of the role of PMCs gives us insights into topics of peace and security. This thesis is not meant to improve the way international intervention is planned and executed. Instead, I want to highlight the impact on human lives which has been largely ignored in discussing this topic.

My thesis aims to answer the following research question:

Why do reconciliation efforts differ in instances of misconduct by PMCs and regular troops in the case of the Iraq War between 2003-2011?

My thesis also intends to uncover the following sub question:

What does this difference in reconciliation efforts tell us about the role of PMCs in international intervention?

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## METHODOLOGY

To answer the research question, this paper looks at the different reconciliation efforts made by the U.S. government in the case of misconduct by the PMC Blackwater and by the U.S. Military in Iraq. During the intervention between 2003-2011, Iraqi civilians fell victim to the misconduct of contractors and regular troops. Blackwater played an important role in the U.S. intervention. Blackwater's misconduct is tied to its disproportionate use of force and high amount of casualties in Iraq from 2003-2009, leading to the end of their contract in 2009 (Fitzsimmons, 2013). Also U.S. regular troops' battlefield ethics have been under scrutiny, uncovering their abusive behavior towards Iraqi troops and noncombatants (Wilk et al., 2013).

The analysis will look at the principal, the U.S. government, third parties, Iraqi civilians, and the agents, Blackwater and the U.S. Military. The misconduct by the agent, Blackwater, and U.S. Army will be discussed in chapter 3 where different instances of misconduct are covered. The analysis aims to reveal to what extent the U.S. government acknowledged the interests of the civilians who fell victim to the PMC's and U.S. Military's misconduct. To determine this, for the first analysis, a qualitative content analysis will be conducted based on the reconciliation measurement framework by Rettberg and Ugarriza (2016). They provide a conceptual framework that helps analyze responses from populations after conflict. By categorizing the data according to this framework, I can identify the needs and interests of Iraqi victims, their relatives and the Iraqi government.

The second analysis aims to reveal to what extent the U.S. government met the calls for redress of Iraqi civilians and the Iraqi government. To determine this, I will look at the reconciliation efforts by the U.S. government toward Iraqi victims, their relatives, and the Iraqi government. To identify what reconciliation efforts have been made, I will conduct a qualitative content analysis that is also based on the reconciliation measurement framework identified by Rettberg and Ugarriza (2016).

Afterwards, I compare the calls for redress voiced by Iraqi citizens and the government to the reconciliation efforts made by the U.S. government, while bringing in possible explanations based in previous research as discussed in chapter 1. These findings will help to provide an answer to the question why reconciliation efforts differ in instances of misconduct by PMCs and regular troops in the case of the Iraq War between 2003-2011.

Here, I will discuss the seven scales of the reconciliation measurement framework by Rettberg and Ugarriza (2016) and how they will be used in the analysis. These authors identified a multidimensional typology that conceptualizes reconciliation through seven scales: "perspective, [...] axis, [...] levels, [...] context, [...] depth, [...] mechanisms, [...] assessment" (Rettberg & Ugarriza, 2016, p. 520). The analysis is conducted based on six of the seven scales: "perspective, [...] axis, [...] levels, [...] context, [...], mechanisms, [...] assessment" (p. 520). These scales allow the analysis to reach an in-depth understanding of the way reconciliation is understood by the Iraqi victims, relatives, and

government, and by the U.S. government. This multi-levelled approach is important, because it shows that a seemingly match between understandings of reconciliation contains a mismatch when unfolding the deeper levels of reconciliation. This is why, this thesis aims to understand the general perspectives on reconciliation, what relationships are emphasized by the different actors, on what levels reconciliation is expected to take place, but also what specific mechanisms were being put into motion, and to what extent the hopes of third parties were met with actual reconciliation efforts by the U.S. government.

The scale depth is left out of the analysis. Depth points to the overall understanding of when reconciliation can be considered successful by looking at the outcome on a societal level (Rettberg & Ugarriza, 2016). This becomes clear when there is a general idea of the Iraqi population and their government about what the relationship looks like between the two conflicting parties. For example, the minimum depth is that Iraqi citizens and American soldiers and contractors recognize each other, while a deeper form of reconciliation is that Iraqi citizens are free of occupation. The analysis of this thesis is unable to establish what the demand of society is regarding the depth of reconciliation. However, this is interesting to explore when looking at data at a larger scale which is able to identify this sentiment.

Now, we will turn to the explanations of the other six scales of the analytical framework and how they will be used in the analysis. *Perspective* takes into account the religious, psychological, philosophical, juridical, historical, economic, and political perspectives. Reconciliation can be approached from different perspectives. Dependent on the perspective, the needs and concerns of victims can differentiate (Rettberg & Ugarriza, 2016). While psychological perspectives focus on emotional change and personal healing, a juridical perspective regards reconciliation as an end point to a process, in which justice, truth-seeking, and reparations play an important role (Rettberg & Ugarriza, 2016). By looking at this scale, the analysis can uncover what the perspective of victims, perpetrators, and principals are by looking at what they demand or offer in terms of reconciliation efforts. For example, Iraqi victims can express a need for legal prosecution of perpetrators, while the U.S. government offers means for personal healing. There can be a mismatch in perspectives, but even when overlap is found between perspectives, the reconciliation efforts by the U.S. government can fall short of expectations by Iraqi victims, relatives, and government. This will be explained in-depth in the paragraph on the scale of mechanisms.

*Axis* is divided in the horizontal-spatial axis and vertical-temporal axis. Horizontal-spatial axis refers to the present-time relationships between people, communities, and societies, meaning reconciliation focuses on the relationships between these different actors. Vertical-temporal axis refers to coming to terms with what has happened in the past and how to work towards a common future (Rettberg & Ugarriza, 2016). Both require different forms of reconciliation, because they refer to different aspects of the conflict, namely current relationships and coming to terms with understandings of the past and future. The axis on which reconciliation is situated can be derived by looking at whether the U.S. government's reconciliation efforts are focused at restoring current relationships, which points to the horizontal-spatial axis, or, at investigating the truth so the different parties have a mutual understanding of the past, which suggests the vertical-temporal axis. Reconciliation can be demanded and/or take place on both axes.

Reconciliation can take place at different *levels*, specifically interstate, national, intergroup, and interpersonal (Rettberg & Ugarriza, 2016). By looking at the levels it becomes clear to what extent Iraqi victims, relatives, and the Iraqi government demand redress on an individual level, state level, or societal level. By making a distinction between these levels, we understand how the reconciliation efforts fit the expectations of Iraqi victims, relatives, and the Iraqi government on the levels on which this takes place. An example of reconciliation on an individual level is financial compensation to the relatives of victims. Reconciliation on a societal level entails punishments of perpetrators, which shows that misconduct is not tolerated by society. A mismatch occurs when the U.S. government offers financial compensation to the relatives of a victim, while the relatives demand legal punishment of the perpetrators. The analysis uncovers on what levels Iraqi victims, relatives, and government demand reconciliation and to what extent there is an overlap with the reconciliation efforts made by the U.S. government.

*Context* is also an important dimension of reconciliation. Different situations call for different reconciliation efforts. Reconciliation efforts are tied to their settings. Focusing on cases in which societies try to overcome a history of violence, comparable settings are post-mass violence, post-war situations, post-armed conflict, and post-authoritarian regime (Rettberg & Ugarriza, 2016). Context is important for a nuanced understanding of the demands and reconciliation efforts tied to the different incidents. This is why each incident's background is covered in chapter 3.

Another dimension related to the outcome of reconciliation efforts is *mechanisms*. The scale mechanisms consists of a 30-category scale that contains the range of reconciliation efforts that can be put into motion. The 30 mechanisms included in this framework do not necessarily lead to the intended purpose of reconciliation, but could also lead to impediment of reconciliation (Rettberg & Ugarriza, 2016). For example, truth-finding efforts could stir up emotions by reminding victims of the wrongdoings of the other party. This is important to take into consideration when evaluating reconciliation efforts. Intentions do not matter more than the actual outcomes of reconciliation efforts. This scale helps to identify the reconciliation efforts made by the U.S. government toward Iraqi civilians in the case of misconduct by Blackwater and by regular troops. By linking their reconciliation efforts to the categories in this scale, overlap between Iraqi citizens' calls for redress and U.S. reconciliation efforts can be identified. Rettberg & Ugarriza (2016) have identified an extensive list of methods of reconciliation that includes different forms of reconciliation efforts identified in the literature on peacebuilding.

The mechanisms relevant to the cases, because they were put into motion, will be defined here. Guilt can be defined as the recognition by someone of the consequences of their agency, in this case, by the perpetrator (Lu, 2008). Apologies consist of a written or verbal statement of admissions of wrongdoing, the acceptance of responsibility for wrongdoing, and an expression of regret (Slocum et al., 2011). Compassion means to be aware of someone's suffering, being moved by it to such an extent that someone is feeling motivated to help (Strauss et al., 2016). Truth-seeking means to present a factual account of the misconduct that has taken place (Rushton, 2006). Attitudinal or emotional change refers to a change in behavior or emotional ties to the subject at hand. Accountability refers to accepting the responsibility or accounting for one's actions (Merriam-Webster, n.d.). Reparation refers to compensatory justice, which entails the perspective that a wrongdoer should pay their victim(s) for their

losses (Walker, 2006). The mechanism justice refers to the juridical answers to the wrongdoings of the past (Teitel, 2017). Structural change refers to a dramatic shift in the approaches or policies toward the subject in question. In this paper, the result of a structural change is a shift in the approach toward the handling of perpetrators as part of the reconciliation efforts.

In the scale of mechanisms, there can be two types of mismatches. Firstly, a mismatch exists when Iraqi relatives would ask for financial compensation for the loss of a family member, while the U.S. government offers only a formal apology. Then, there is a mismatch in the kind of mechanism that was put into motion. Secondly, in another scenario Iraqi victims could demand a life sentence for a perpetrator, but the perpetrator receives a 10 years prison sentence. In that case, there is a match in the kind of mechanism put into motion, but a mismatch in the degree of reconciliation within that mechanism.

Another dimension of reconciliation is *assessment*, which the authors divided the assessment in hopeful, skeptic, and pessimistic. This scale refers to the perceptions on the feasibility of reconciliation (Rettberg & Ugarriza, 2016). This scale helps to identify what the perception is of Iraqi citizens on the possibilities of reconciliation. When the data reveals that Iraqi citizens are hopeful, they can be considered to have positive perception on the possibilities of reconciliation. When the Iraqi government is highly critical of U.S. efforts to reconcile the victims and their relatives, they can be considered to have, in this case, a skeptical perception on reconciliation. This tells us more about the hopes people have in having their demands fulfilled which could affect their voicing of concerns.

Before moving to the analysis, firstly, the aim is to define and highlight the debates focused on PMCs. By applying the principal-agent theory, this thesis suggests that plausible deniability plays an important role in the difficulty for third parties to get redress in the case of harmful behavior directed towards them during conflict. This thesis also suggests that the implications of hiring PMCs compared to employing state troops affect a state's reconciliation efforts. Also, the literature on which this paper's analytical framework builds, will be discussed in the next chapter. Secondly, an overview of the Iraq War and the role of PMCs and regular troops in this war is provided. Thirdly, the findings are discussed, comparing the match between reconciliation efforts and Iraqi victims, relatives, and the Iraqi governments calls for redress in the case of Blackwater's misconduct and U.S. Military's misconduct. Finally, to conclude the research question is answered and the research process is discussed. Now that the structure of this thesis is clear, we will go into the concepts and debated related to the hiring of PMCs versus employing soldiers.



## CHAPTER 1: LITERATURE REVIEW

In the first chapter, I will give an overview of the main debates on the hiring of PMCs. Important for the research question is to understand what PMCs are and what the implications are of hiring PMCs. Interesting to see is how the nature of PMCs and their relationship to their principal offers them a unique position in conflict situations. This chapter also discusses a conceptual framework for reconciliation that will be used for the analysis. After the literature review, the thesis moves into an overview of the U.S. invasion in Iraq and the role of PMCs in this context.

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### DEFINITION OF CONCEPTS AND TYPOLOGY

PMCs are multinational corporations that have subsidiaries all over the globe. Their stocks are sold on stock markets and they provide quarterly reports to their investors. These companies exist in different shapes and sizes with the biggest managed by Fortune 500 executives filling their ranks with ex-military and law enforcement employees from all over the world (McFate, 2017). McFate (2017) suggests that PMCs offer their services to an increasingly broadening clientele, selling their services to states, international institutions, non-governmental organizations, and wealthy individuals, among others. Because of the structure of these companies, they are more opaque than the U.S. Military or government agencies (McFate, 2017). For example, in the U.S., PMCs are not subject to the Freedom of Information Act, which means PMCs lack transparency. In the case of the U.S. government, they do not have direct access to the contracts with PMCs, even though they are the ones buying their services (McFate, 2017).

It is important to accurately pinpoint what PMCs are and to identify a clear typology that clarifies the structures of the market of force which helps us pinpoint the object of study (Singer, 2007; Avant, 2005; McFate, 2017). According to McFate (2017), many terms have been used to capture the essence of the firms involved in this industry to try to capture their broad spectrum of activities: private military contractors, private security contractors, private military service providers, and the list goes on. This is connected to the different activities that firms in the private military industry provide (McFate, 2017). While companies like Blackwater and DynCorp International offer combat tasks, other companies like Total Intelligence Solutions perform tasks related to intelligence operations, and other companies like Swift Global Logistics offer logistical support during military operations (McFate, 2017).

Singer (2007) classified firms in the private military industry according to the relationship of their range of services to the battle space. He argues that the structure of the traditional armed forces, which is according to their closeness to the fighting (tip of the spear metaphor) is analogous to the structure of outsourcing firms' linkage to business chains (service providers, consultative firms, and noncore service outsourcing). According to Singer's (2007) "Tip of the Spear" (p. 93) typology, there are three main categories: military provider firms; military consultant firms; and military support firms. Firstly, military provider firms are firms that are focused on the tactical environment. They are at the forefront of the battle space, meaning they are involved in activities related to implementation and direct demand. Secondly, military consultant firms are focused on training and advising services that are essential to the operation and/or structuring of the client's forces. They do not bear risks on the battleground, but work on strategic, operational, and organizational analyses. Thirdly, military support firms sell

supplementary military services that are not essential to the core mission, but part of secondary tasks. They build capabilities and support in the background through nonlethal aid and assistance, such as technical support, logistics, and transport. This typology offers a conceptual framework that facilitates the classification of private military firms (Singer, 2007). However, this typology does not take into account that a single private military firm can provide a diversity of services that fall into different classifications.

Avant (2005) decided to categorize not the firms, but their contracts in order to classify private military firms. She divides the industry into external and internal security. According to her, external security relates to protecting borders, categorized in three broad areas: operational support, military advice and training, and logistical support. Internal security refers to activities related to keeping order within borders, including intelligence services, crime prevention, and site security (Avant, 2005). This approach is state-centric. According to McFate (2017), this is problematic, because in a world where transnational threats torment a globalized world, lines between internal and external affairs are blurred.

McFate (2017) calls for an improved typology, using Singer's (2007) categories, while specifying the typical tasks and missions related to these categories. He also emphasizes the similarities between the categorization of traditional military units and private military firms. Military units fall into three categories: combat arms; combat support; and combat service support (McFate, 2017). Firstly, combat arms units offer "fire and maneuver force tactical movement capability" (Peltz, Halliday, & Hartman, 2003, p. 17). These units are involved in the actual fighting and include foot soldiers, special forces, combat aviation, and armor. PMCs are the private industry's equivalent of combat arms, because these companies offer combat services and training in using lethal force.

Secondly, there are combat service units in the traditional army. These units "enhance combat power through combat multipliers" (Peltz, Halliday, & Hartman, 2003, p. 17). These units are not involved in the actual fighting, but crucial to the core mission of fighting. They allow the combat arms units to fight the enemy more effectively (McFate, 2017). The private industry's equivalent of combat service are security support companies. They provide operational support and are generally unarmed. Typical tasks include operational coordination, intelligence operations, information warfare, and cyber warfare (McFate, 2017).

Lastly, combat service support units "sustain a force, both people and equipment, and provide operational and strategic mobility" (Peltz, Halliday, & Hartman, 2003, p. 17). McFate (2017) explains that these are nonlethal and offer assistance without engaging in fighting. Unlike combat service units, combat service support units do not offer operational support, but logistical and administrative support. The equivalent in the private industry are general contractors (McFate, 2017). General contractors are not part of the private military of security industry, but do perform tasks that facilitate warfare. Their tasks are nonlethal and not inherently military, instead their tasks involve maintenance, transport, medical help, and routine administration (McFate, 2017). This typology identifies a clear divide between the different roles firms can take and the tasks and missions related to these different roles. The categories do not distinguish between external and internal security issues, allowing for the integration of all their operation regardless of the geographical location or client.

Relevant to the research question are the characteristics of PMCs who provide combat services in the area they are employed. According to McFate (2017), PMCs are distinguished from other nonstate actors by five characteristics. Firstly, PMCs are incentivized by profits rather than by politics. In principle, PMCs are profit-seeking actors who serve the highest bidder. Secondly, PMCs take part in the global financial system and are structured as transnational corporations. The contractors are employed by and organized in a company structure. Thirdly, they provide their services in foreign countries rather than in their domestic country. Besides rare exemptions, PMCs are expeditionary companies that are foreign focused. Fourthly, they use organized violence in a military manner rather than maintaining law and order as law-enforcement would. Fifthly, PMCs are lethal and their commodity is armed conflict (McFate, 2017).

Clearly, there are classifications that distinguish the tasks, roles, and functional areas of different private companies that are involved in the waging of war. The outsourcing of military tasks has sparked debate among scholars and practitioners. In the next two sub-chapters, the thesis discusses the main debates and implications of outsourcing military tasks.

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#### OUTSOURCING MILITARY TASKS

Governments increasingly outsource sovereign powers to private companies. According to Verkuil (2007), by allowing private companies to execute tasks that are considered inherently governmental tasks, the boundaries between public and private sector are tested. This is why governments are pushed to justify the privatization of these tasks, such as the prison system, health care, and defense (Verkuil, 2007). Verkuil (2007) argues that outsourcing sovereign powers changes the democratic oversight and accountability of the execution of these powers. This can also be referred to as a democratic deficit. Governments hand over part of their sovereign power, which could weaken the state (Verkuil, 2007), at the same time it can prove to be a great asset when contractors effectively get the job done (McFate, 2008).

Governing by contract also raises concerns about how it can coexist with democratic norms. Outsourcing poses issues for democratic values, such as public participation, transparency, regulations, and accountability (Freeman & Minow, 2009). Questions are raised by the public when scandals arise and governments failed in the past to have oversight over the contractor (Minow, 2004). This lack of oversight strengthens the state, because democratic control is diminished due to incomplete and/or inaccurate information on the actions by the government. This allows governments greater freedom to act on the international stage without facing repercussions that are a result of democratic control (McFate, 2008; Freeman & Minow, 2009). Another concern is the dilution of political power. PMCs allow other actors to compete with states, because their military capabilities empower nonstate actors (McFate, 2017). When militarily empowered, these nonstate actors can undermine the sovereignty of the state. According to McFate (2017), this suggests the existence of a polycentric world order in which authority is shared among both states and nonstate actors. Overlapping authorities act in a non-state-centric and polycentric world order. This is similar to power relations before the Middle Ages and, thus,

also referred to as neo medievalism (McFate, 2017). PMCs allow for a dilution of political power and offer a diversifying set of actors the opportunity to gain military capabilities through commercial relations.

However, states are the main clients of PMCs and influence the services provided by PMCs. This means that at the moment, PMCs are mainly tailoring their services to states and states decide on the laws that apply to PMCs and the missions they are employed for. Certain PMCs can even be considered a private extension of the state, such as Blackwater, that only is in service of the government of a specific state. Thus, suggesting that the current world order is not state-centric, because of a possible durable disorder that PMCs can facilitate, is a problematic proposition. However, it is a potential development that could result in shifting power dynamics in a changing world order.

Governmental tasks that have been increasingly outsourced since the start of the 21<sup>st</sup> century are military tasks. According to McFate (2017), the end of the Cold War created a favorable climate for the private military industry to develop. In 1993, the Clinton administration downsized the defense budget by 40 percent. McFate (2017) describes that army divisions were reduced, the number of navy ships were decreased, the air force shrank, and overseas troop strength was reduced. Military personnel was let go, while a post-Cold War security vacuum was in the making. The private military industry filled this vacuum by offering their services to strengthen or replace tasks that used to belong exclusively to national armed forces (McFate, 2017). Nowadays, governments hire PMCs to provide different services linked to military operations (Singer, 2002). Specifically, PMCs are defined as “private firms selling military services including combat, consulting and logistics” (Leander, 2005, p. 804). PMC marketing involves private lobbying to gain contracts for military operations. According to Minow (2004), once employed, PMCs become involved in policymaking and decision-making processes in foreign affairs. These developments raise questions about the sovereign power of the state and the representation of the interests of PMCs in foreign policy decision-making (Minow, 2004). While governments benefit from outsourcing military tasks, PMCs can undermine the state’s interests.

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#### IMPLICATIONS OF CONTRACTING PMCS

By looking at the legal, political, strategic, and ethical implication of hiring PMCs for military tasks, we better understand the benefits and problems related to governmental outsourcing to PMCs.

Legally, it is extremely difficult to punish PMCs. PMCs have an international character and perform operations in foreign states. Domestic regulations do not cover PMCs, while international law is built around states (Ross, 2011; Avant, 2005). During U.S. Military operations, the host country and the U.S. government enter into Status of Forces Agreements (SOFA), which regulate the legal status of U.S. militaries that are stationed in the host country (Kidwell, 2005). According to McFate (2017), domestic law is inadequate to prosecute unlawful behavior by PMCs, international law mostly focuses on states, is ambiguous and hard to enforce, and treaties are not binding and vague. This creates a climate of impunity. However, in the U.S. an interesting development took place, namely the 2007 Defense Bill. By changing five words in the Uniform Code of Military Justice (UCMJ), civilians, and thus contractors, fell under the UCMJ. By adding that the UCMJ is applicable to persons that serve or accompany armed forces in the field, not only during declared war, but also during contingency

operations, civilians are also subject to military jurisdiction when officially war was not declared (Chapman, 2010). This means that the contractors operating in Iraq were no longer operating in a climate of impunity. However, as Singer (2007b) explains, an important footnote is that the prosecution based on the UCMJ is highly dependent on the willingness to implement the clause. He explains that the clause does not necessarily apply, but can be used as a means of discipline if military officers wish to use it. Besides that, contractors are also tied to their contract with the U.S. government that can give them exclusion from the UCMJ (Singer, 2007b). Moreover, Ross (2011) states that the distance between states and PMCs creates the opportunity of plausible deniability. Contracting PMCs allows governments to operate in an unregulated market where there is room for more strategic maneuverability. States can satisfy their aims in ways that they otherwise could not employ, because they regulate under international and domestic laws and treaties (Ross, 2011). This is why states are reluctant to enforce treaties that counter the climate of impunity.

Hiring PMCs also has political implications. Although the use of PMCs points to an erosion of the monopoly of state violence and, thus, state power, states increasingly turn towards PMCs (Avant, 2006). Commercial companies pursue their foreign policies that would otherwise be constrained due to domestic and international scrutiny. According to Baker and Pattison (2012), the costs of employing the state's own soldiers have to be justified to the state's citizens. When fighting in foreign states, soldiers put their lives at risks and civilians have to provide resources to continue the employment of their soldiers. Their government is held accountable and is expected to justify the intervention of their state. Especially, because international intervention holds the interests of foreign citizens over their own. These political costs largely disappear when PMCs are hired (Baker & Pattison, 2012). Casualty numbers can be kept arbitrarily low. This downplays the human cost of intervention and can positively influence public opinion (Avant, 2006; Ross, 2011). PMCs are also cheaper to employ than the army, which means less financial burden (Lawyer, 2005; Ramirez & Wood, 2019).

Problematic in the relationship between PMCs and states, is the lack of democratic control over the use of force. Citizens and Congress have less tools to monitor these actions and have an incomplete picture of how policies are put into practice. This threatens democratic oversight over the use of violence. This can be beneficial if the government wants to be able to fall back on plausible deniability. However, it shows to be problematic for opposition and citizens who cannot keep oversight over how violence is used in name of their country. Also, the principal of the contract can face challenges when the contractor acts in ways that undermine the principal's interests. Then a lack of democratic oversight can result in ineffective practices (McFate, 2008; Freeman & Minow, 2009). This lack of control over the use of force is a disadvantage for the contracting state.

Hiring PMCs also has strategic implications. The nature of conflict is changing and with it the need for technical support. States became increasingly dependent on technology that requires long-term investments. PMCs offer the technological capabilities that states need during conflict. They are commercial companies that offer state-of-the-art warfare techniques (Avant, 2006). Furthermore, PMCs have proven to be militarily effective (Akcinaroglu & Radziszewski, 2012) and provide a broad range of highly specialized tasks provided by highly trained and experienced contractors (Singer, 2007; Kidwell,

2005). On top of that, PMCs can offer on-demand military services and allow states to increase their military strength when conscripts are lacking. In cases of internal conflict and civil war, PMCs stay loyal to their client, while public armies might fall apart (McFate, 2017).

According to Lawyer (2015), although the utility of PMCs proves to be high, their profit incentives are well-known to the adversaries in the conflicts. So are the PMCs' lack of political coercive means, that states do have, such as economic sanctions that could help to maintain cease-fires (Lawyer, 2005). PMCs mainly fulfill the task of violence or supporting violence in the host country without alternative political coercive means, which obstructs PMCs of maintaining peace. Moreover, PMCs' profit motive incentivizes PMCs to prolong and expand war for financial gain when there is a lack of competition (Akcinaroglu & Radziszewski, 2012). According to Akcinaroglu and Radziszewski (2015), it is for this reason that PMCs intentionally underperform. However, in the presence of competition, PMCs aim to deliver optimal services to win clients and receive compensation in the form of natural resources (Akcinaroglu & Radziszewski, 2012). For example, when PMCs are paid to exploit natural resources, it is beneficial for the PMC to exploit them in a secure environment. This allows them to operate more efficiently. At the same time, a secure environment is the objective of the principal (Akcinaroglu & Radziszewski, 2012). In this case, PMCs deliver optimal services to their principal. Also, when competition increases, PMCs recognize the importance of reputation and delivering optimal results in order to maintain their client (Akcinaroglu & Radziszewski, 2012). Furthermore, Fitzsimmons (2013) shows that hiring PMCs involves the risk of the use of disproportionate force, depending on their company culture, which results in more deaths and injuries.

Security organized by commercial companies also entails ethical implications. Baker and Pattison (2012) argue that hiring PMCs for international intervention is problematic, because PMCs do not have humanitarian intentions, but profit motives. According to McFate (2017), this becomes an ethical concern in the case of PMCs, because an industry that profits from war is introduced to areas that are conflict-prone. This opens up the risk of spiraling into conflict, which is sustained by the dynamics of the market in which demand and supply rule (McFate, 2017). On top of that, they report to their shareholders, whose interests they ultimately serve. This is why contracting PMCs for international intervention purposes is problematic (Baker & Pattison, 2012). According to Avant (2006), another ethical consideration for the hiring of PMCs is their influence on post-conflict rebuilding efforts. PMCs are profit-driven companies with a short-term mentality that support states short-term in capacity. However, when it comes to the long term, they increase institutional malformation in a state, which hinders the formation of strong state institutions. States that need to rebuild after conflict, deal with a diffusion of control over territory and eroding state control (Avant, 2006). These implications give an overview of the considerations involved in governmental decision-making regarding contracting PMCs.

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#### PRINCIPAL-AGENT THEORY

These implications are intrinsically related to the nature of the relationship between two actors which can be characterized as a principal-agent relationship. Such a relationship involves the delegation and

exchanges of resources. Therefore, the principal-agent theory is deemed appropriate to, and is extensively applied to, analyze public accountability (Gailmard, 2012). The principal-agent relationship is a social relationship that consists of at least two actors, namely the principal and the agent. Essential in this relationship is that the agent performs an action on behalf of the principal in exchange for resources. In line with the framework of new institutional economics, both sides aim to maximize their own interests. For the principal this is to further their own interests which should be accomplished by completing the action. The agent is also driven by self-interest and seeks to maximize their personal welfare (Gailmard, 2012; Krahmman, 2016). While the agent depends on the principal to deliver the resources as agreed, the principal encounters problems that are related to divergent interests and information asymmetry (Braun & Guston, 2003).

Inherent challenges to this relationship are the problem of moral hazard and adverse selection problems (Braun & Guston, 2003). Moral hazard refers to the uncertainty of the principal regarding the behavior and intentions of the agent. Agents might not act in line with the interests of the principal which can undermine the principal's objectives. The principal might not be aware of the agents' interests and actions due to their informational disadvantage compared to the agent (Braun & Guston, 2003; Krahmman, 2016). Agents can choose the manner in which they perform the tasks delegated to them. The principal might prefer a different *modus operandi*, but has no direct control over the actions of the agent (Gailmard, 2012). The uncertainty surrounding the question whether and how the agent will perform the tasks as delegated by their principal is called moral hazard. Another issue that can arise is the problem of adverse selection. In selecting the appropriate agent for the task, principals possess less information on the agent than the agent (Krahmann, 2016). This means that agents can hide certain characteristics or intentions that could be harmful to the principal's interests (Braun & Guston, 2003). This lack of information on the abilities of agents is called adverse selection.

To overcome the problem of divergent interests and information asymmetry that could lead to potential costs, parties can set binding rules, set up contractual relations, or incentivize or threaten the agent to ensure compliance (Chesterman & Lehnardt, 2007). The agent does not have to be the perfect agent to their principal, since it is costly for the principal to eliminate the agent once they are hired (Gailmard, 2012). However, keeping on an agent can also become costly. According to Fitzsimmons (2013), Blackwater has a relatively bellicose military culture that focuses on norms that encourage personal initiative, proactive use of violence, and an exclusive approach to securitizing. This stimulated Blackwater's contractors in Iraq to use violence freely against any person who they suspected to pose a threat (Fitzsimmons, 2013). Especially in the case of PMCs, the climate of impunity permits the absence of accountability by the PMC. In the case of Blackwater this is problematic, because the use of violence is stimulated through their organizational culture which can lead to more injuries and deaths (Fitzsimmons, 2013).

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## ROLE OF THIRD PARTIES

Previous research has identified that third parties to principal-agent relationships have difficulties in having their needs and interests acknowledged. The problems that third parties face due to the principal-



agent relationship are called negative externalities. In international intervention, an often overlooked third party is the local civilian population (Krahmann, 2016). According to Krahmann (2016), there are several reasons why third parties face challenges in having their concerns acknowledged.

Firstly, third parties do not have authority over the principals and agents. This is why principals and agents can ignore the needs of third parties. Principals only pay attention to third parties' concerns when third parties hold power over the principal or influence the principal's objectives. Agents need to satisfy their stakeholders and receive compensation of the principal (Krahmann, 2016). This means third parties are largely ignored.

Secondly, third parties might be unable to voice their needs. When concerns are not voiced, they cannot be heard. This is common for third parties in countries far away from the principal. These third parties often do not have access to international principals. In this way, needs and interests remain disregarded (Krahmann, 2016).

Thirdly, third parties face problems of identification of the principals and agents. When third parties cannot identify the actors that are guilty of misconduct, their claims can remain unacknowledged (Krahmann, 2016). Even if third parties would be able to identify the agent, their concerns might not be heard. In the case of international intervention, governments might be constrained by law in their operations, but PMCs operate in a climate of impunity (Sukhanin, 2018). This means that the identification of the principal would give more hope in having their needs and interests acknowledged, because governments are under domestic and foreign scrutiny and bound by law.

This means that when principals deny accountability, it makes it harder for third parties to have their needs and interests acknowledged (Krahmann, 2016). This is important, because this means that a government's decision on whether to take accountability for the misconduct of PMCs can influence their reconciliation efforts. The needs and interests of the citizens of the state where the PMCs were employed could remain unacknowledged and the perpetrators officially unidentified (Krahmann, 2016). If third parties would be able to identify the principal and voice their concerns, at least the possibility arises for the perpetrator to acknowledge those concerns and provide reconciliation based on the calls of the people. "To be at all germane to contemporary conflict, peacebuilding must be rooted in and responsive to the experiential and subjective realities shaping people's perspectives and needs" (Lederach, 1997, p.21). In order to successfully reconcile the victims of violence, it is necessary to not merely focus on state relations, but focus on compensating and acknowledging the damages done to society. To take both a top-down and bottom-up approach is key in the reconciliation process (Bar-Tal & Bennink, 2004).

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#### RECONCILIATION EFFORTS IN INTERNATIONAL INTERVENTION

To understand reconciliation efforts in Iraq, it is necessary to define reconciliation and explore different forms of reconciliation. Reconciliation efforts have the purpose of establishing peaceful relations between ex-adversaries. This is not established through formal peace agreements. Instead, it is essential to understand the concerns and calls of third parties that have experienced harm and traumas



from conflict (Bar-Tal & Bennink, 2004). Reconciliation has been broadly identified as entailing the promise of healing of victims by remedying the harm that was done to victims of violence in the case of conflict (Scheper-Hughes, 1998). Worchel and Coutant (2008) view reconciliation as a subjective perspective, relating it to trust-building and creating social capital (Putnam 1994). In order to properly identify the feasibility of reconciliation, there needs to be a clear definition. Based on their literature review, Rettberg and Ugarriza (2016) identify a broad definition of reconciliation that can be applied to different contexts: “the (r)establishment of relations between former antagonists” (p. 523). In matters of public policy, reconciliation efforts focus on short term notable benefits after the end of a conflict, which aids in building legitimacy and viability for changes and upcoming political and material expenses (Rettberg & Ugarriza, 2016). Previous research has shown that reconciliation is a multi-leveled process that can be conceptualized in multiple ways (Androff, 2012).

To capture the multi-leveled process and different conceptualizations, this thesis builds on the reconciliation measurement framework by Rettberg and Ugarriza (2016). By doing a literature review on scholarly works on reconciliation, they identified a description of reconciliation and its core issues and attributes in order to create a multidimensional typology that conceptualizes reconciliation through seven scales: “perspective, [...] axis, [...] levels, [...] context, [...] depth, [...] mechanisms, [...] assessment” (Rettberg & Ugarriza, 2016, p. 520). Rettberg and Ugarriza (2016) show that victims’ expectations counter current wisdom and discourse of reconciliation, meaning there is a mismatch between victims’ needs and concerns and the reconciliation efforts that were made.

The scales of reconciliation as identified by Rettberg and Ugarriza (2016) have been discussed in the methodology section (p. 4). Through this systematic description of reconciliation, this thesis aims to uncover the full range of Iraqi civilians’ calls for redress and reconciliation efforts made by the U.S. government, Blackwater, and perpetrators. These scales help identify the meaning of reconciliation to ex-adversaries. By looking into these different dimensions in the analysis, we will get an in-depth understanding of the calls for redress and the reconciliation efforts. This shows the differences between the hopes of the victims and the promises by the perpetrators (Rettberg & Ugarriza, 2016). This conceptualization of different levels and ways of reconciliation is used in the analysis to reveal differences and similarities in the reconciliation efforts aimed at Iraqi civilians for misconduct by a PMC and by soldiers in the U.S. Military.

This chapter provided an overview of the main debates concerning PMCs, highlighting the implications of outsourcing to PMCs and the climate of impunity they operate in. Interestingly, the position of PMCs can be described according to the principal-agent relationship theory. The reconciliation framework will guide the analysis in which the different dimensions will be used to identify the calls for redress and reconciliation efforts made in the case of Iraq. Before turning to the analysis, this thesis looks into the historical background of the U.S. invasion and the roles that PMCs have played in this invasion. This gives a better idea about their increasing involvement in the invasion, their increasing presence on the ground, and with that an increasing amount of incidents as a result of misconduct. These will be discussed alongside mistreatment of Iraqi civilians by the U.S. Military.

## CHAPTER 2: OVERVIEW OF U.S. IN IRAQ AND THE ROLE OF PRIVATE MILITARY COMPANIES

This chapter gives a historical overview of the U.S. intervention in Iraq and the roles that PMCs play in this intervention. Important to understand is that PMCs became increasingly involved during the invasion to the point where contractors outnumbered U.S. troops. This is an important development considering the climate of impunity and lack of oversight they operate in, as discussed in Chapter 1.

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### HISTORICAL OVERVIEW U.S. INTERVENTION IN IRAQ

In 2003 a U.S.-led coalition invaded Iraq and toppled the dictatorship of Saddam Hussein. The aftermath led to sectarian strife accompanied by outbursts of violence between the Shia majority and Sunni minority in Iraq (Andrews, 2017). At the time, Iraq was in a poor condition. The Gulf War of a decade before had destroyed Iraq's infrastructure. International sanctions placed on Iraq by the victors of the war was crippling for Iraq's economy and weakened Iraq's military arsenal (Kerr, 2016; Mansfield, 2019). Suspicions of Iraq's progress in making nuclear and chemical Weapons of Mass Destruction (WMDs) led to demands that Hussein open up Iraq's weapon facilities to United Nations (UN) inspections. In May 1991, the United Nations Special Commission on Disarmament (UNSCOM) found incriminating evidence of chemical weapons, signs of a nuclear program, and weaponized anthrax. International sanctions were lengthened, restricting imports that could be helpful for the construction of weapons, banning oil sales, and trade restrictions (Kerr, 2016). According to Kerr (2016), for the Iraqi population the 1990s were disastrous. They did not have access to medicine or food supplies. Child mortality rates peaked and Iraq's health system weakened. The last UNSCOM inspections took place in December 1998. Unable to end Hussein's weapon-making, U.S. and British aircrafts attacked facilities that UN officials were not able to enter (Kerr, 2016).

Although President Bush, with the backing of only British Prime Minister (PM) Tony Blair, pressed for Iraqi cooperation with new UN inspections in 2000 and 2001, Hussein rejected to cooperate. After 9/11, President Bush and PM Tony Blair gained support from a coalition to invade Iraq. In 2002, President Bush delivered his State of the Union speech in which he described the Axis of Evil that included Iraq, Iran, and North Korea. He presented Iraq as a WMD producing country that could provide arms to terrorists that were plotting to attack America and its allies. At the UN, U.S. and British delegates pressed to pass Resolution 1441, claiming that Iraq was in material breach to previous resolutions (Kerr, 2016). Meanwhile, U.S. Secretary of State, Colin Powell, convinced the UN Security Council (UNSC) that Iraq was developing WMDs and was engaged in a terrorist network. He referenced Central Intelligence Agency (CIA) reports and photographs that were later proven to be unreliable evidence (Kerr, 2016).

Apart from having suspicions about a WMD program in Iraq, the U.S. was also concerned about instituting regional change and rebalancing its regional alliances towards representative social forces (Mansfield, 2019). While 85 per cent of the Muslim population is Sunni, the Middle Eastern Muslim population is more balanced. From the borders of Afghanistan to the Levant, Shiites number up to 140 million which is almost half of the Muslim population in the region. Iraq has the most Shiites living in their territory than other Arab countries (Mansfield, 2019). Shiites make up almost 60 per cent of Iraq's

population. Even though Sunnis make up a small minority, they thrived under the rule of Hussein, himself a Sunni who politicized the Sunni minority through a policy of sectarian favoritism (Damluji, 2010; Mansfield, 2019). This is how Hussein attracted support from neighboring Sunni states and created Sunni dominance in the security apparatus (Mansfield, 2019). The U.S. planned for regime change and aimed to install a majority rule that would shift the power balance towards Shia supremacy (Damluji, 2010; Mansfield, 2019). The CPA used sectarian identities as a political tool. Differential treatment of Iraqi citizens based on their sectarian identity would become the foundation of the democratic system installed by the U.S. (Damluji, 2010). Within Iraq opinions were divided about U.S. intervention. While Iraqi leaders perceived Washington's aims to serve its own needs, instead of Iraq's, a part of the Iraqi population did support U.S. intervention after years of foreign sanctions and Hussein's violent campaigns (Mansfield, 2019).

Despite doubts on the legality of launching an attack on Iraq and pleas by the UNSCOM chief, Hans Blix, to give the inspections more time, a U.S.-led coalition invaded Iraq on March 20<sup>th</sup> 2003 (Andrews, 2017). In total, 49 nations took part in the attack (Kerr, 2016). 192,000 American troops, 45,000 British troops, 2,000 Australian troops, and almost 200 Polish soldiers invaded Hussein's Iraq. By April 9<sup>th</sup> 2003, Baghdad fell to the coalition. Within three weeks Hussein's rule ended, he himself was hanged three years later. However, what became clear was that the invasion was launched under false pretenses. Blair's dodgy files proved to contain unreliable information and the CIA reports and photographs provided inaccurate information. Meanwhile, the U.S. installed the Coalition Provisional Authority (CPA) under control by former U.S. counter-terrorism department chief, Paul Bremer, in Iraq to monitor Iraq (Mansfield, 2019). The CPA instituted a program of de-Ba'athification, a policy aimed at removing the influence of the Ba'ath party. The U.S. political intervention resulted in enforcing a significance in sectarian difference (Damluji, 2010). Led by this rationale of political sectarianism, the CPA disbanded Iraq's armed forces. This led to disastrous consequences, because it stripped Iraq of its government institutions and expertise, while leaving hundreds of thousands of resentful men unemployed (Andrews, 2017). Besides dismantling security forces, also Iraq's bureaucracy, nomenclatura and nationalized industries were weakened. Bremer spent all of Iraq's oil revenues and frozen assets with UN permission. Any sign of the promised reconstruction was absent. In 2004, Bremer left Iraq after dissolving the CPA. He handed over power to an unelected Iraqi government and a U.S. ambassador. Although the CPA was dissolved, over 100,000 American boots remained on Iraqi soil and coalition advisors stayed to watch the moves of Iraqi ministers and departments (Mansfield, 2019).

The dismantling of Iraqi governmental departments left a power vacuum that attracted non-state, transnational actors (Andrews, 2017; Mansfield, 2019). According to Damluji (2010), conflict along sectarian lines in Iraq was part of conscious politics. He argues that as the regime collapsed, political interventions by the U.S. helped to create a political structure that empowered sectarian parties. Local chieftains and religious leaders aimed to fill the power vacuum. In the process of obtaining that goal, in Baghdad, assets of the central government were pillaged, symbols of power were destroyed, and prisons, courtrooms, and public records were burnt (Mansfield, 2019). Mansfield (2019) describes that Sunni opposition fragmented into loosely coordinated cells of Iraqi veterans who targeted Shia leadership, coalition forces, and the mercenaries and Iraqi personnel they employed. Ba'athist leaders

and loyalists of Hussein labelled themselves as mujahedeen. Their jihadi ideology earned them legitimacy in their fight against the U.S., who met the mujahedeen with brutal counter-insurgency tactics (Mansfield, 2019). Moreover, Mansfield (2019) shows that Shia security forces, who were supervised by the U.S. and commanded by a Shia interior minister, acted brutally against Sunnis, attacking their mosques and torturing and killing Sunnis. These acts of violence based on sectarian identities can be traced back to the political interventions by the U.S. after the toppling of the Iraqi government (Damluji, 2010). Andrews (2017) describes that also Shia militias were forming, such as the Shia Mahdi Army that formed in 2003 numbering up to 50,000 fighters who fought against the coalition troops. The Shia League of the Righteous split from the Mahdi Army in 2006. They carried out attacks against coalition forces and the Iraqi army (Andrew, 2017). In the north of Iraq, the Kurdish Peshmerga forces expanded their autonomous zone, which included the oil producing city Kirkuk. By 2010, the elected Nuri al-Maliki, who became PM in 2006, brokered the Status of Forces Agreement with the U.S. Washington had to withdraw combat troops by August 2010 and leave altogether in 2011. Furthermore, Maliki demanded that advisers and mercenaries that were left behind by the U.S. fell under his jurisdiction (Mansfield, 2019).

By 2011, the year the U.S.-led coalition withdrew its last troops, 4,400 American troops and 179 British troops had been killed (Kerr, 2016). According to a U.S. Congressional report America's financial costs raised up to \$4 trillion (Mansfield, 2019). The U.S. suffered reputational damage due to the uncovering of human rights abuses and torture, especially in the Abu Ghraib prison (Andrews, 2017). The estimates of the number of Iraqi soldiers and civilians that died as a direct or indirect result of the U.S. invasion vary greatly. Andrews (2017) writes that over 100,000 Iraqi citizens had been killed, of which most Iraqi deaths were civilian deaths. The Iraq Body Count's (n.d.) database recorded over 120,000 civilian deaths from violence between 2003-2011. The Iraq Body Count database records monthly deaths from violence (Iraq Body Count, n.d.). According to Watson Institute (2021) between 184,382 and 207,156 Iraqi citizens died from violence related to the U.S., its allies, opposition groups, and the Iraqi military and police forces between 2003 and 2011. Mansfield (2019) writes that by 2010, 5 per cent of the 27 million people that make up Iraq's population had been killed or wounded (Mansfield, 2019). Kerr (2016) takes into account the consequences of the Iraqi invasion and includes the deaths from factional violence and limited access to basic needs. According to Kerr (2016), around 600,000 Iraqi citizens died in factional violence since the start of the U.S.-led attack. Normal basic services were unavailable or limited at best due to the invasion, causing 500,000 Iraqi children to die (Kerr, 2016).

Besides the immense death toll, Iraq suffered in other areas. Iraq's oil production stayed at pre-war levels, while power and water cuts became the norm (Mansfield, 2019). Sectarian violence and the rise of Islamic State of Iraq and the Levant (ISIL) in Iraq, led to tens of thousands of deaths in the years to come after the U.S. invasion had ended (Andrews, 2017). Iraqi society fractured and the invasion rejuvenated Muslim fundamentalists who want to fight Western expansionism and Shia revivalism (Mansfield, 2019). The invasion of Iraq led to a high death toll and disastrous times for Iraqi citizens.

According to McFate (2017), in order for the U.S. to sustain the war in Iraq, they had to lean on private companies that could provide contractors that ultimately made up half of the state's military force in Iraq. This efficient political solution was convenient for the leadership at the start of the 2000s. Withdrawing the regular troops would remind of the failed Vietnam-era and drafting U.S. citizens was undesirable (McFate, 2017). This is why U.S. Congress hired private firms that delivered contractors from all over the world. Reports show that as of 2011, PMCs' personnel was made up of U.S. citizens (ca. 16,000), local nationals (ca. 7,500), and third-country nationals (29,000) (Subcommittee on Readiness and Management Support, 2012).

Contractor fatalities were steadily increasing between 2004 and 2007, while the military fatalities remained relatively constant (McFate, 2017). The reason for the increased number of fatalities of contractors can be explained by the modus operandi of combatants in Iraq. They responded to increasingly aggressive patrols by U.S. troops and contractors by attacking the softest targets (The New York Times, 2007). In this case, the contractors were considered softer targets than the military. Truck drivers and translators who worked as contractors were the main targets of the combatants, but the combatants also fell victim to these attacks. The Pentagon does not keep track of contractor fatalities, nor do they report on their deaths to the public (The New York Times, 2007). This illustrates the implications discussed in Chapter 1. Contractors support foreign policy objectives of the U.S., but the government does not need to track nor report on the deaths of contractors. While, in 2003, contractors' deaths made up 5 percent of the total death toll of the U.S. Military and contractors combined, in 2004 the contractors' death share rose to over 20 percent, ultimately reaching 36 percent in 2008. In 2009, the contractors' fatalities surpassed the military fatalities, 204 against 188 deaths respectively (Schooner & Swan, 2010). Although contractors made up the bulk of fatalities compared to regular troops, most contractors hired by the U.S. to perform tasks in Iraq were unarmed and provided nonlethal services. Interestingly, the death toll numbers show that the proportion of contractors in deaths of U.S. troops increased over the years (McFate, 2017).

When the U.S. withdrew troops from Iraq between 2008 and 2010, 57,400 soldiers (37%) and 67,000 (41%) private contractors were withdrawn. According to McFate (2017), this drop in numbers in the case of contractors took place mostly in the services of base support, 27,400 contractors (31%) and construction, 34,000 (94%). While non-lethal contractors were taken out of Iraq, 2,417 new armed contractors were sent to Iraq, an increase of 26%. In 2010, PMCs accounted for 11,160 contractors, or 12 percent, of the total contracting force in Iraq. Even though their stake seems relatively small, size alone does not account for the disproportionate negative impact PMCs had in Iraq (McFate, 2017). Especially the PMC Blackwater has been under scrutiny, because of their involvement in multiple incidents in Iraq leading to civilian deaths and injuries. This is why we now turn to the role that Blackwater played in the U.S. intervention in Iraq.

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#### U.S. CONTRACTING OF BLACKWATER

Blackwater, now called Academi, is a U.S.-based PMC known for its role as the elite guard for the war on terror. The company was founded by ex-Navy SEAL Erik Prince. According to Scahill (2008), under

Prince's leadership, Blackwater possessed 20,000 contractors, 20 aircrafts, and a military base. The company is known for its training facilities, its ability to topple governments, responding to natural disasters, and operating in the war on terror. By 2007, Blackwater earned more than \$500 million in contracts with governments (Scahill, 2008). After 9/11 Blackwater focused on protection, aerial surveillance for the Pentagon, intelligence agencies, and the State Department. In 2003, Blackwater landed the job of guarding CPA-leader Bremer. A contract worth \$21 million in 11 months. Since 2004, Blackwater has earned over \$320 million from the State Department budget to protect U.S. officials and foreign officials in conflict regions (Bennett, 2007; Fitzsimmons, 2013). However, whether Blackwater helped the U.S. in their battle against terrorism in the Middle East remains unclear (Harden, 2017). While praised by President George W. Bush, Blackwater was considered, by Congress, to form a threat to U.S. democracy that was able to emerge as a powerful private army during the War on Terror (Scahill, 2008).

The contracting of Blackwater by the U.S. government raised questions about the implications the hiring of private contractors has on democracy (Byer, 2007). Byer (2007) explains that Blackwater was immune to prosecution in Iraq and was also not bound to the Uniform Code of Military Justice that regular troops are subjected to. Specifically, Bremer put forward Order 17 of the CPA, which stated that “[c]ontractors are not subject to Iraqi laws and regulations” (CPA Order Number 17, 2004, p. 5). PMCs had to comply with CPA instructions and regulations. PM Maliki regarded this as a challenge to Iraq's sovereignty (McFate, 2017). The immunity of Blackwater personnel allowed them to act as they saw fit. However, the involvement of Blackwater employees in bloody incidents raised questions about the accountability of the contractors.

The accountability of contractors becomes a clear issue when considering the harm that has been done to Iraqi civilians by some contractors. We now turn to the misconduct that took place in Iraq, committed by both Blackwater and the U.S. Military. This will provide insights into the severity of the misconduct and shows the urgency of the calls of Iraqi civilians for redress.

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#### MISCONDUCT BY PMC AND TROOPS IN IRAQ

Human impact is not the priority in framings used in researching conflict, instead it is incidental to the violence used during conflict (Sjoberg, 2018). According to Sjoberg (2018), instead, concerns of national and international security are prioritized, while human suffering is often deprioritized. Sjoberg (2018) argues that human impact needs to be brought back into the security arena. People live through wars and wars do not just affect people's lives, but it is where war is taking place (Sjoberg, 2018). Especially in the conflict of Iraq, where the U.S.-led coalition used counter-insurgency tactics that cost many civilian lives (Mansfield, 2019). To understand civilian demands for redress and reconciliation efforts, it is necessary to consider the harm that has been done to Iraqi civilians. This is why we now turn to some examples of misconduct against Iraqi civilians by both PMC Blackwater and U.S. regular troops. This list is not exhaustive, but highlights the extent of violence employed in several cases of misconduct against civilians.

Throughout its employment in Iraq, Blackwater personnel has been involved in the shooting and harming of Iraqi civilians. During the most violent years of the U.S. invasion (Iraq Body Count, n.d.), 2005 until 2007, Blackwater personnel fired in at least 323 incidents, caused 62 deaths, of which mostly non-combatant deaths, and 86 injuries, of which most non-combatant victims. We know that in 2010 Blackwater personnel in Iraq consisted of approximately 7,000 contractors (YRIS, 2012), while the U.S. Military consisted of around 112,000 soldiers (Obama White House, 2020). While being a disproportionately small part of the force, Blackwater personnel was involved in many incidents that raised questions in Congress about their employment in Iraq (Reuters, 2007).

As aforementioned, Fitzsimmons (2013) showed that Blackwater has a bellicose military culture focused on norms that encourage personal initiative, proactive use of violence, and an exclusive approach to securitizing. This could explain why Blackwater is more likely to fire upon suspected threat more quickly, at longer distances, and with more bullets than firms that do not place strong emphasis on these norms. Blackwater was also more likely to abandon the victims they shot, leaving them in the chaos of the incident (Fitzsimmons, 2013). In 2004, Blackwater responded with a heavy-hand crackdown on Fallujah after one of their convoys, containing four contractors who were conducting a delivery for a food caterer, were ambushed and killed by a Sunni mob. This crackdown led to resentment, since Iraqi citizens perceived it as a form of collective punishment (Scahill, 2008).

Not only that, Blackwater personnel killed 17 Iraqi civilians in the Nisour square shootings in 2007. This led to huge backlash in both Iraq and the U.S. (Fitzsimmons, 2013). This incident is also referred to as Baghdad's Bloody Sunday. According to Welch (2008), Iraqi officials state that they are investigating Blackwater personnel for six other incidents that left 10 Iraqi civilians killed and 15 injured. Incidents of violence by Blackwater continued to be revealed (Welch, 2008). Blackwater's helicopter dropped CS gas, used for riot control onto a region where Iraqi civilians and American soldiers were present. At the same time, an armored vehicle of Blackwater also released CS gas, which blinded passers-by. The gas, which is similar to tear gas, can only be detonated by the U.S. Military after approval from top military commanders. Again, this raised questions about legal issues concerning PMC personnel (Welch, 2008).

Now that we have looked at the misconduct by PMC Blackwater, we now turn to the misconduct by U.S. troops. At the time, the U.S. Military was instructed to kill as many combatants as possible, which led to the killings and injuries of many civilians (Meštrović, 2009). Common forms of misconduct by U.S. soldiers have been the ill-treatment of detainees of the armed forces that are in military custody and the ill-treatment of civilians that did not take active part in hostilities (Rowe, 2008). In 2005, a civilian massacre took place in Haditha, Iraq. U.S. Marines killed 24 unarmed civilian Iraqi civilians at close range, including children (Savage & Bumiller, 2012). In 2006, U.S. Military soldiers gang-raped and murdered a 14 year old Iraqi girl, Abeer Qassim Hamza al-Janabi, after murdering her family. This is also referred to as the Mahmudiyah rape and killings, named after Al-Mahmudiyah, the town close to where the family's house stands (Geneva International Centre for Justice, 2017).

Another well-known incident was Operation Iron Triangle in 2006. During this operation two soldiers of the Infantry Regiment killed three unarmed Iraqi detainees in a suspected al-Qaeda training

facility (Meštrović, 2009). Another infamous incident is the Ishaqi incident. In March, 2006, Iraqi police accused U.S. troops of killing 11 people in Ishaqi. According to Iraqi police records, civilians were rounded up in a house and killed by the American soldiers. After shooting the children, men, and women, the soldiers burned down the house, three vehicles, and killed the villagers' animals (Schofield, 2006). These are examples from incidents that involved U.S. soldiers. Gross abuses of Iraqi civilians were not exceptional during the invasion (Khawaja, 2012). These examples show the tip of the iceberg of the misconduct of both PMC and U.S. Military misconduct in Iraq.

As shown in this chapter, an increasingly violent conflict was accompanied with an increasing number of contractors present in Iraq. Both Blackwater and U.S. troops were guilty of mistreating Iraqi civilians, leading to questions in Congress and criminal charges. We will now turn to the analysis that will go in-depth into six separate cases. Three cases of misconduct by Blackwater and three cases of misconduct by the U.S. Military that all had lethal endings. By uncovering the calls for redress and reconciliation efforts, the analysis aims to reveal a (mis)match between the hopes of Iraqi victims, relatives and the Iraqi government, and the promises of the U.S. government.



### CHAPTER 3: DEMANDS FOR JUSTICE AFTER MISCONDUCT IN IRAQ

In order to compare the reconciliation efforts by the U.S. government in cases of misconduct by a PMC and the U.S. Military in Iraq, an analysis is conducted on six cases of lethal bodily harm that took place during the most violent years of the invasion. For each case, the analysis will look at calls for redress by Iraqi civilians and the reconciliation efforts made by the U.S. government in these instances of misconduct.

The selection of cases was based on the amount of coverage the incident had in combination with the sufficient available information on calls for redress and reconciliation efforts. By looking only at cases that involve lethal harm, the severity of the crimes are comparable in the sense that victims lost their lives and their relatives lost someone to violent misconduct. The severity of cases is accounted for by looking at the specific calls for redress that are matched to the reconciliation efforts. When more lives were lost or the brutality was perceived as great, the calls for redress matched this severity by asking for punishments such as death sentences instead of merely financial compensation. These were then compared to the reconciliation efforts which can match these calls to different extents. It is this (mis)match that is of interest for the analysis, which accounts for the severity as it is an intricate part of both the calls for redress and the reconciliation efforts. The reason why cases of lethal harm were selected, is because those cases received extensive coverage by the media and news outlets. The coverage allows in-depth information to emerge.

The data on these cases was collected through a variety of sources to ensure the validity of the data: media coverage; legal documents; governmental reports; newspaper outlets; communities' statements; agreements between governments and Blackwater on reconciliation; court records; internal communications of the U.S. government; communications between Blackwater and the U.S. government; newspaper outlets. These sources contain available data on the calls for redress and reconciliation efforts that were made in each specific incident. They allow for the collection of data on descriptions of the events as well as the content of the demands by Iraqi victims, relatives and the Iraqi government, and reconciliation efforts by the U.S. government. After looking into the six different cases, the thesis ties the calls for redress and reconciliation efforts to the framework as laid out by Rettberg and Ugarriza (2016). In this way, the differences and similarities in the reconciliation efforts aimed at Iraqi civilians for misconduct can be uncovered.

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#### BLACKWATER

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##### AL-HILLAH INCIDENT 2005

On June 25<sup>th</sup>, 2005, a Blackwater operator killed an innocent Iraqi civilian bystander in Al-Hillah, south of Baghdad. After shooting the man in the chest, the contractors failed to report the incident, attempted to cover it up, and were removed from Al-Hillah (Committee on Oversight and Government Reform, 2007). The U.S. State Department referred to the incident as “the random death of an innocent Iraqi citizen” (NPR, 2007). The Iraqi victim was a 42 years old man, a husband and father to six children (Bishop, 2005). Prince told the Congressional committee that the contractors thought that a potential car bomb approached their convoy. They started shooting rounds at the car to warn them

not to approach. One of the rounds went through the side of the car, rebounded off the surface and hit the bystander (Fitzsimmons, 2015).

After the incident happened the victim's family reported it to the U.S. State Department (Committee on Oversight and Government Reform, 2008). The brothers expressed they were upset about the fact that their brother was killed while being an innocent bystander. They declared that they wanted to resolve matters quickly, because the six children of the victim had nobody to provide for them (Democratic Oversight House, 2007). It appears that the main concern of the victim's brothers was financial security for the children of the victim.

In response to the victims' request, the U.S. State Department requested Blackwater to provide financial compensation, put the matter behind them without conducting any further investigation into the incident, the circumstances and potential criminal liability. The financial compensation was in the form of a payment of \$5,000 by Blackwater to the family of the victim. The main concern of the U.S. State Department was to put the matter behind them and continue business as usual, which could be done by providing financial compensation (Committee on Oversight and Government Reform, 2008). A second U.S. State Department official wrote in its email correspondence with Blackwater that they "second[ed] [the] comments on the need for Blackwater to provide funds asap. ... [W]e are all better off getting this case – and any similar cases – behind us quickly" (Committee on Oversight and Government Reform, 2008).

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#### ANDREW MOONEN 2006

On Christmas Eve, 2006, a Blackwater contractor, Andrew Moonen, fatally shot Raheem Khalif Hulaichi three times, while Hulaichi was on duty near the Iraqi prime minister's compound where he worked as a security guard to Vice President Adil Abd-al-Mahdi. Allegedly, the Blackwater employee was wandering around drunk at the Green Zone when he killed Hulaichi by using his Glock 9 mm pistol (The Seattle Times, 2007; CNN, 2010). After the shooting, Moonen left the scene. Hulaichi was taken to the 28<sup>th</sup> Combat Army Support Hospital where he was declared dead within 30 minutes after the shooting (Committee on Oversight and Government Reform, 2008).

After the incident, Hulaichi's family accused Moonen of shooting and killing Hulaichi (NBC News, 2010). The Iraqi government responded angrily in a letter to the U.S. Embassy, calling the incident murder. Both Hulaichi's family and the Iraqi government called for redress. Hulaichi's wife, Umm Sajjad, requested financial compensation for the death of her husband. She wanted to guarantee her children's future and to buy a house. Not only that, she expressed her surprise at the fact that Moonen had been flown out of the country, while she expected him to face trial in Baghdad (CNN, 2010). Azad Jaff, who led the negotiations on the victims' family behalf, stated that the family demanded \$100,000 (The Spokesman-Review, 2007). The Iraqi government was working to keep the killing out of the media, but wanted justice to be done. According to Iraqi Vice President Abdul-Mahdi "Iraqis would not understand how a foreigner could kill an Iraqi and return a free man to his own country" (Committee on Oversight and Government Reform, 2008). This implies that the Iraqi government expected Iraqi citizens to request

imprisonment of the suspect, while the victim's family expected trial in Baghdad and financial compensation.

In order to reconcile the family, Blackwater undertook three forms of reconciliation, namely financial compensation, an apology, and firing and fining Moonen. Blackwater paid \$20,000 in compensation to the victim's family (CNN, 2010). However, the Spokesman-Review (2007) reported that Umm Sajjad claimed she never received the money that was promised to her by Blackwater. The reason for this were the negotiations that were continuing, because the Vice President's office believed the amount of money was too little. In the meantime, she received compensation from the Iraqi government and received financial help from her family to provide for her and her children (The Spokesman-Review, 2007). Besides the promised financial compensation, the U.S. State Department determined that Blackwater should send a letter of condolence and apology to the family of the victim. This was to "assure the Iraqis don't take steps, such as telling Blackwater that they are no longer able to work in Iraq (Committee on Oversight and Government Reform, 2008). The day after the killing, Blackwater terminated Moonen's contract based on his possession of a firearm while being intoxicated (Committee on Oversight and Government Reform, 2008). Although an investigation was started after the outcry from Iraqi citizens, neither Iraqi law nor military justice could be applied to the case. Because Blackwater had flown Moonen back to the U.S., he was no longer in Iraq. Because he was a contractor of Blackwater, he could not be prosecuted as a soldier (The Seattle Times, 2007). Ultimately, federal prosecutors did not file criminal charges against Moonen. The State Department kept the incident out of Moonen's personnel record. This allowed him to be hired by another defense contractor and put to work in Kuwait two months after the incident (CNN, 2010).

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#### NISOUR SQUARE/BAGHDAD'S BLOODY SUNDAY 2007

On 16 September, 2007, a convoy of four Blackwater trucks was under way to go to the site where a car bomb explosion took place. At an intersection at the Nisour Square, Blackwater guards tried to stop ongoing traffic to allow the convoy to pass. One car did not slow down and a Blackwater guard, named Nicholas Slatten, started firing at the car. According to eyewitnesses he also threw a grenade at the car which caused it to burst into flame. According to Blackwater, its personnel got ambushed by Iraqi combatants, but eyewitnesses suggest different. Iraqi bystanders and some Blackwater employees present at the scene, the guards began to shoot at innocent unarmed civilians who tried to flee the square. While initial reports stated that 11 Iraqi civilians were killed, later investigation showed that the shooting left 17 Iraqi civilians dead and 20 injured (Vox, 2014).

After the incident happened, dozens of Iraqi civilians have filed lawsuits against Blackwater for engaging in indiscriminate killings and beatings. The main calls for redress focused on receiving justice in the form of punishment, receiving an apology for the victims and their families, seeking the truth, and financial compensation. General Ray Odierno, the commanding general in Iraq stated that the Iraqi people want to see these people being punished for their crimes against Iraqi civilians (NBC News, 2010). The main call for redress was focused on getting justice. Male relatives of victims who died stated "[w]e must have justice" (The Arab Weekly, 2020). Disappointed by the U.S.' justice system, the Iraqi police officer who led the investigations said he knew that they would never get justice. Besides victims'

relatives and police officials, the Iraqi government also asked for justice by requesting the U.S. to reconsider the seriousness of the committed crimes (The Arab Weekly, 2020). Iraq's government even vowed to punish Blackwater themselves by punishing the contractors under the law (AFP, 2007). Moreover, the Iraqi government demanded an apology for the victims and their families. Also, the guards should be held accountable for their crimes (Fox News, 2007). One Iraqi civilian who was at the scene did not seek compensation, but demanded the truth from the guards (CNN, 2007). Iraqi Prime Minister Nuri al-Maliki demanded Blackwater to pay \$8 million to the families of the victims (Democracy Now, 2007).

The U.S. State Department urged Blackwater to pay off the victims and helped Blackwater to clean up the evidence by collecting shell casings (Vox, 2014). However, the FBI and Congress opened investigations into the shootings (The Arab Weekly, 2020). Based on the initial findings U.S. Secretary of State Condoleezza Rice tightened control of Blackwater's missions in Iraq (AFP, 2007). While investigations were ongoing, Robert Ford, who served in Iraq as a U.S. diplomat for five years, talked to relatives of the victims and gave out envelopes containing financial compensation. He also provided them with formal U.S. apologies without admitting guilt, because the investigations were still going on (The Arab Weekly, 2020). In early 2010, the trial was to be set, but the U.S. District Court for the District of Columbia dismissed the charges. Judge Ricardo Urbina explained that this decision was based on the mishandling of evidence and violations of the constitutional rights of the defendants (United States District Court, 2009). However, the prosecution was reinstated in 2011, ultimately leading to the dropping of charges against one Blackwater guard, while prosecuting the remaining four.

In 2019, Slatten was sentenced to life in prison for murder, while Heard, Liberty, and Slough were sentenced to 12,5 to 15 years of prison for voluntary and attempted manslaughter and the using of machine guns to commit a violent crime (Courthouse News service, 2019). What caused outrage among Iraqi citizens was the decision of former U.S. President Donald Trump to grant full presidential pardons to the four guards, ending their prison sentences (CNN, 2020). The U.S. government gave financial compensation, opened investigations, prosecuted the guards who ultimately received presidential pardons, and formerly apologized without admitting guilt.

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## U.S. MILITARY

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### HADITHA 2005

On November 19, 2005, U.S. Marines killed 24 civilians in Haditha, a city close to Baghdad. The civilians that died were unarmed men, women, elderly, and children (Reuters, 2012). They were shot multiple times at close range. Staff Sergeant Frank Wuterich, the leader of the massacre ordered the Marines to shoot first, ask questions later (U.S. v. Wuterich, 2008). This was right after a fellow Marine was killed by a roadside bomb. Haditha is a hotbed of combatants, but the reaction of Wuterich to go with the Marines to nearby homes without identifying a threat goes against training and led to the needless deaths of 24 civilians (The Guardian, 2012b).

The families of the victims voiced their demands for justice. They did not accept the \$2,500 that was offered as financial compensation for each family member killed (The Guardian, 2012a). A survivor of the incident, Awis Fahmi Hussein, expressed their expectation that the American soldiers would confess the crime in front of the world and would be sentenced to life in prison (The Guardian, 2012b). Shaeed Fakhri, a lecturer at Babel University stated that they wanted the soldiers to be executed. Also a store owner in Baghdad expressed his demand for the most severe punishment for the soldiers. The same stance was shared by Taleb al-Essawi, who is a political advisor to the governor of Anbar province. According to him, these soldiers should be executed, in accordance with Iraqi law. He added that the U.S. government should also compensate the families of the victims. Khalid Salman, head of the local council of Haditha stated that these soldiers should be put to trial in international courts, where justice could be served (CNN, 2012). The main calls for redress focused on alternative courts and sentencing, namely sentence to life or death sentence, and financial compensation to the family.

The U.S. Military prosecutions against the Marines ended in no jail sentences. Out of the eight Marines, six had their cases dismissed and one was cleared of any criminal wrongdoing (Reuters, 2012). However, Wuterich entered a plea with the military prosecutors in which the charges of involuntary manslaughter and aggravated assault were dropped. Instead, he claimed responsibility for negligent verbal instructions which resulted in the deaths of innocent Iraqi civilians (Reuters, 2012). While he originally faced 152 years in prison, he now was sentenced to 90 days in prison, a pay cut, and a reduction in rank (CNN, 2012).

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#### MAHMUDIYAH RAPE AND KILLINGS 2006

On March 12, 2006, five U.S. soldiers gang-raped and murdered a 14-year-old Iraqi girl Abeer Qassim Hamza al-Janabi, and the murder of her father, her mother, and her 5-year-old sister in Mahmudiyah. According to a sworn statement by one of the soldiers, Mr. Green, another soldier from their regiment announced that he wanted to kill some Iraqis. The group decided to go to the house of Abeer, knowing that only one man would be present in the house. While Green took the father, mother, and younger sister to a nearby bedroom, his fellow soldier Cortez raped Abeer. Afterwards, fellow soldier Barker tried to rape Abeer, when they heard gunshots from the room Green was in with the family. Green announced he killed her family members in the other room, after which he raped Abeer and shot her several times. To get rid of the evidence, the soldiers put Abeer's body on fire. However, the family was discovered a few hours later by Iraqi soldiers who reported the murder (CBS News, 2006).

After the incident, it was reported that only a death penalty could satisfy the family and villagers. According to them, the contractors should have been tried under Iraqi court (The New York Times, 2009).

A year after the incident took place, Mr. Green was sentenced to life in prison without parole for raping and murdering the 14-year-old Abeer and killing her family. The other four soldiers pleaded guilty or were prosecuted in military courts (The New York Times, 2009). Mr. Cortez, Mr. Barker, and Mr. Spielman were sentenced to 100, 90, and 110 years in prison respectively (The Guardian, 2007).

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#### ISHAQI INCIDENT 2006

On March 15, 2006, American troops killed 11 Iraqi civilians, among which an elderly woman and a 6-month-old child, in the aftermath of a raid in the town of Ishaqi. According to Iraqi police documents, the American soldiers herded the victims into one room before killing them. Afterwards they set three vehicles on fire, killed the animals of the villagers, and blew up the house. However, according to the U.S. soldiers, they arrived after the house had collapsed due to heavy fire. When approaching the house, shots were fired from the house and a confrontation of 25 minutes ensued. When they were searching the house, they found an al-Qaida suspect, who they arrested. Afterwards, they also found two dead women and a dead child (Knight Ridder Newspaper, 2006; The Guardian, 2011).

After the incident took place, the Iraqi government demanded an apology from the U.S., financial compensation for the families (Jurist, 2006), and investigations into the truth (CNN, 2006). The accounts of what happened in Ishaqi differed to a great extent. Accusations against U.S. troops are commonplace, often unfounded or exaggerated (Knight Ridder Newspapers, 2006). However, this case was unusual because the reports of the incident originated with the Iraqi police, whose officers were willing to tie their names to the report (Knight Ridder Newspapers, 2006).

Major general William B. Caldwell IV, who is the Multi-National Force-Iraq spokesman stated that the U.S. government mourns the losses of innocent lives and that the U.S. government would start an investigation into the incident. He reiterated the stance of the U.S. government that condolence payments must be made (CNN, 2006). An investigation was conducted by the U.S. Military and concluded that the U.S. troops did not intend to kill innocent civilians (VOA News, 2009). According to the investigation, the U.S. soldiers acted properly and would not face any charges for the deaths of the Iraqi citizens (CNN, 2006). However, in 2011 the Iraqi government reopened their investigations into the incident. Autopsies revealed that the victims were handcuffed and shot in the head (The Washington Post, 2011). As a result of the incident, U.S. commanders ordered ethics training for the U.S. troops in Iraq (The New York Times, 2006).

Now that the situations, demands, and reconciliation efforts of the cases are described, we will move to the next section. In the following chapter, the information on the different cases are tied to the reconciliation framework by Rettberg and Ugarriza (2016) as discussed in chapter 1. This chapter shows the unique position of PMCs in their climate of impunity and reveals the challenges in receiving justice in cases of severe misconduct.

#### CHAPTER 4: U.S. GOVERNMENT RESPONSES: PRIVATE MILITARY COMPANY VERSUS MILITARY

After looking into these different cases, now these findings are tied to the methods of reconciliation and the multidimensional typology that conceptualizes reconciliation through six out of the seven scales by Rettberg and Ugarriza (2016): “perspective, [...] axis, [...] levels, [...] context, [...], mechanisms, [...] assessment” (p. 520). Because this framework allows to identify the U.S. responses and Iraqi concerns in a comprehensive framework, they can be compared to each other.

These calls for redress are reviewed case by case after which commonalities in the different cases could reveal commonalities in the calls for redress which uncovers a common approach of redress. By matching these calls for redress to the actual reconciliation efforts the U.S. made, overlap between the calls for redress and reconciliation are revealed. Then the difference in overlap between these two elements will be revealed in the cases of misconduct by PMC Blackwater and U.S. troops. The calls for redress by Iraqi victims, relatives, and the Iraqi government were almost identical in the cases involving Blackwater and the U.S. Military, this is why the section on the six layers takes into account all cases, identifying minor differences in calls for redress. The reconciliation efforts by the U.S. government will be separated into two sections. The first section looks into the reconciliation efforts that were made in the case of misconduct by Blackwater. The second section looks into the reconciliation efforts that were made in the case of misconduct by the U.S. Military. There, the (mis)matches between the calls for redress and reconciliation efforts will also be identified, as well as, as the theory discussed in chapter 1 to act as a possible explanation to the differences in (mis)matches. In the last chapter, the two different approaches to reconciliation will be compared to identify how and why differences and similarities between the efforts that were made by the U.S. government.

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##### 6 LAYERS IN CALLS FOR REDRESS

We will now look into the calls for redress in the cases of misconduct by Blackwater and tie it to the six dimensions of reconciliation to deepen our understanding of the calls for reconciliation by Iraqi civilians. What is striking, is that in the case of misconduct by PMC Blackwater, the layers of calls for redress by Iraqi victims and/or their family members are mostly similar in the different incidents.

The data indicates that Iraqi civilians align with a *juridical perspective* on what reconciliation means. The victims and/or their relatives were focused on the endpoint of the process by seeking justice, truth, and compensation. In the case of the Al-Hillah incident in 2005, the main worries of the brothers of the victim was the financial situation of the children of the victim. The same is in the case of Andrew Moonen, who shot Hulaichi in 2006. While Hulaichi’s wife requested financial compensation for her children’s financial security, she also called for a trial in Iraq. In this case, also the Iraqi government was involved. The Iraqi government requested imprisonment of Moonen. This indicates their juridical perspective on reconciliation. In the case of the Nisour Square shooting in 2007, victims and relatives of victims demanded justice and the truth of what had happened. The Iraqi government expected an apology, financial compensation, and punishment under Iraqi law. Again, the calls for redress were focused on holding the perpetrators accountable according to the judicial system. After the incident in Haditha in 2005, the victims’ families demanded justice through punishment and confessions. Like the Iraqi government, they wanted the perpetrators to receive the most severe punishment. On top of the

punishment, an Iraqi government official also stated their demand for financial compensation for the families of the victim. After the Mahmudiyah rape and killings in 2006, family and villagers called for only one thing and that was the death penalty for the U.S. soldiers that mistreated the Janabi family. Although Abeer Janabi's two brothers who were at school during the incident, were left behind, the focus of was on punishing the perpetrators. In the case of the Ishaqi incident in 2006, the Iraqi government demanded that the U.S. government apologized and financially compensated the families of the victims. On top of this, they demanded investigations into the truth to have an accurate idea of what had happened in Ishaqi. The elements of reconciliation that were demanded by Iraqi victims, relatives, and the Iraqi government suggest they took a juridical perspective on what reconciliation should look like. Besides financial compensation and apologies, Iraqi civilians and the government were seeking truth and justice. This is an important layer in understanding what the expectations were of Iraqi civilians after being mistreated. Their voices would be heard when reconciliation would fit this juridical perspective on reconciliation.

The data suggests that the reconciliation is situated on both a *horizontal-spatial axis* and *vertical-temporal axis*. It seems that the calls for redress are partly focused on present-time relationships, because victims seek justice and reparations from the perpetrator and the U.S. judicial system. This emphasizes the expectations Iraqi civilians have from the contractors and U.S. government to attempt to restore of what is left of their relationship. Furthermore, reconciliation is situated on the vertical-temporal axis, because the calls for redress partly focused on understanding the past. Based on the data, the victims and their relatives sought the truth. They voiced their need to know what happened so that appropriate punishment could follow, but also so they might be able to come to terms with the past.

There are *multiple levels* at play in this process of seeking reconciliation. While the misconduct took place on an individual level, the reconciliation is expected to take place on multiple levels. Victims, relatives of victims, and the Iraqi government sought reconciliation on an *individual level*. This was the case when they demanded compensation and apologies for the victims and their relatives. Reconciliation was also expected to happen on a *societal level*. This was the case when the Iraqi civilians and Iraqi government demanded justice and investigations into the truth. These reconciliation efforts would set an example for society that misconduct will be investigated and perpetrators will be punished. This is important, because fulfilling the request on one level, but not the other, means that Iraqi victims', relatives', and governments' calls for redress are only partly satisfied.

The incidents took place in a similar *context* to the extent that they ensued during the bloodiest years of the U.S. invasion in Iraq. Their aftermaths took place in the years after, but before the official ending of the invasion in 2011. Except for the trials in the cases of the Nisour Square shooting by contractors and the Haditha incident by U.S. Marines, which continued until after the end of the invasion.

Different *mechanisms* were expected to be used to achieve reconciliation. In the different cases, Iraqi victims and relatives expected similar mechanisms to be put into motion in order to conclude that reconciliation had taken place. Apart from the Al-Hillah incident, the Iraqi victims, relatives, and government demanded more than only *reparation*. After the Al-Hillah incident, the victim's brothers



voiced their preference to resolve matters quickly and gain financial security for the victim's children, meaning the mechanism they demanded was reparation. In the other two cases that involved Blackwater, it becomes clear that Iraqi civilians asked for *accountability and justice* through trials and punishment, but also *structural change* by stating that these perpetrators should not be able to be free people after committing crimes in Iraq. This last mechanism was expected especially in the case of the Nisour Square, where multiple Iraqi civilians were killed at random. It was also this case, where emphasis was put on receiving *apologies* and demanding the *truth* from the perpetrators about how the incident unfolded. Ultimately, Iraqi victims, their relatives, and the Iraqi government emphasized the mechanisms that would hold the perpetrators responsible and that would recognize the Iraqi victims' and relatives' suffering. The same can be concluded in the cases that involved U.S. troops. In the case of Haditha and Mahmudiyah, the victims' families and the Iraqi government demanded *justice* in the form of severe punishment. After the Haditha incident, one survivor of the incident also expected perpetrators to take *accountability* through confessing their crimes. Another part of the demands was *reparation* in the form of financial compensation to the families of the victims. In the case of the Ishaqi incident, the Iraqi government demanded an *apology, reparation* in the form of financial compensation, and investigations into the *truth*. Again, the focus of the calls for redress was on mechanisms that focused on punishing the perpetrators and restoring the suffering of the Iraqi victims and relatives. A difference between the cases of misconduct by Blackwater and the U.S. Military, is that in the former cases structural change was a part of the calls for redress, while in the latter this was not explicitly stated.

It is challenging to derive from the available data whether the Iraqi citizens' perceptions of the possibilities of reconciliation were positive, skeptical, or negative perceptions. It is possible to argue that the fact that Iraqi victims, relatives, and the Iraqi government voiced their concerns showed that they felt like someone would hear their concerns. In the case of the Al-Hillah incident, the brothers of the victim were convinced that matters could be resolved quickly through financial compensation, which could suggest a positive perception toward the possibility of reconciliation. However, there were no explicit statements about their positive, skeptical, or negative perception on this matter. One statement, after the Nisour Square shooting, by an Iraqi police officer, did reveal an openly negative perception on the possibility of reconciliation. He stated that he knew that they would never get justice (The Arab Weekly, 2020). This reveals the pessimistic perception on the possibility of reconciliation in this particular case. The reason why these perceptions differ can be manifold. Different people can hold different perceptions and expectations can change based on past experiences. Nevertheless, Iraqi citizens' assessment on the possibility of reconciliation cannot be commented on in—depth based on the available information.

In sum, reconciliation was viewed from a juridical perspective, in which reconciliation was expected to be done on both a horizontal-spatial axis and vertical-temporal axis. Iraqi civilians and the Iraqi government demanded reconciliation on an individual level and a societal level in the cases involving Blackwater, and mainly on a societal level in the cases involving the U.S. Military. The mechanisms of reparation, accountability, justice, apologies, and truth-seeking were expected to be put into motion, with a slight difference in the need for structural change in the cases involving Blackwater.

In line with the principal-agent theory, Blackwater undermined the long-term interests of U.S. policy in Iraq. The moral hazard came to the fore in the sense that the U.S. had no control over the ingrained work culture of Blackwater that motivated an offensive *modus operandi*. The incidents point to the ineffective practices that undermined the principal's interests.

Now that we have established a deeper understanding of the demands of Iraqi victims, relatives, and the Iraqi government, we will turn to the actual reconciliation efforts by the U.S. government. The following section will split the reconciliation efforts according to the perpetrators, namely Blackwater versus the U.S. Military.

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## PRIVATE MILITARY COMPANIES

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### RECONCILIATION EFFORTS

Interestingly, in all three cases, the U.S. government ensured that the victims and relatives were financially compensated to a degree that fell short of the demands of Iraqi victims, relatives, and government. This means they put into motion the mechanism of *reparation*, however, reparation was not reached. This mechanism did not fully fit the demands of the brothers who demanded a form of payment to ensure the financial security of the victim's children and were part of the demands of the victims and relatives in the other two cases. After those two incidents, the U.S. government also ensured that Blackwater made *apologies* and they started investigations to reveal the *truth*. In the case of Andrew Moonen, federal prosecutors did not file criminal charges nor did the U.S. State Department include the incident in Moonen's personnel record. Blackwater did send a letter of condolence, showing a formal statement of *compassion*, to the family of Hulaichi as part of achieving the goal of continuing Blackwater's employment in Iraq. In the case of the Nisour Square shooting, although investigations were started, the U.S. State Department first made sure to clean up the evidence of shell casings of the shooting. This counters their efforts to seek the truth. After the incident, charges were dropped against one guard, while the other four were sentenced to 12.5-15 years of prison in the U.S. In this case, the mechanism of *justice* was put into motion by punishing the perpetrators for their misconduct against Iraqi civilians. However, although this mechanism was put into motion, the demand of the degree of legal justice was not met. It is possible to argue that this sentencing was part of *structural change*. Whereas contractors were not prosecuted in the past, now they were sentenced to over 10 years in U.S. prison. This shows that the U.S. was willing to punish people they hired when responsible for a widely covered scandal involving the killing of a group of civilians on the street. This could act as an example to other contractors employed in Iraq. However, when Trump granted full presidential pardons, he reversed the efforts that were made at achieving structural change and justice. This does not take away from the fact that the U.S. State Department did aim to achieve some form of legal punishment for the perpetrators.

What becomes clear is that the reconciliation efforts that were made by the U.S. State Department only partially met the civilians' demands for redress, because they did not fit the multi-leveled juridical perspective of the Iraqi victims, relatives and government, nor did it recognize the demands to come to terms with the past. While the Iraqi civilians expected reconciliation from a juridical

perspective, the U.S. compensated them through financial means in two out of the three cases. Their reconciliation efforts did not only emphasize financial means, they also focused on the horizontal-spatial axis, in which they aimed to restore the current relationship with the Iraqi victims and relatives. However, Iraqi victims, relatives, and the Iraqi government demanded truth-seeking investigations that would accurately reflect the past which allows to come to terms with the past, so they emphasized reconciliation on the vertical-temporal axis. By ensuring that the victims and their relatives would receive financial reparation to restore the current relationship, the U.S. State Department aimed to prevent Blackwater having to withdraw from Iraq. These long-term interests were undermined by the actions of Blackwater. In line with the principal-agent theory, Blackwater undermined the interests of the U.S. government by using an offensive *modus operandi*. This also fits in with the choice to apologize to the victims and their relatives, without admitting to guilt. While justice was very important to the Iraqi civilians, this was a problematic issue for the U.S. government. In the case of Andrew Moonen, the charges were dropped because he was a contractor that could not be trialed under existing law. As discussed in chapter 1, this is an important legal implication of operations by PMCs. They operate in a climate of impunity and can execute foreign policy under less constraints than state troops. In the case of the Al-Hillah incident, trials were not part of the calls by the relatives of the victim. Until 2006, the main pattern we can derive from the analysis is that reconciliation efforts were not made from a juridical perspective and were situated on the horizontal-spatial axis, in which reconciliation efforts were made mainly on an individual level through compensation. This climate of impunity Blackwater operated in, combined with the willingness of the U.S. government to save long-term interests that were undermined by Blackwater, explains why certain mechanisms were put into motion, while others like accountability, justice, and structural change were not. This shows that there is a clear mismatch between the mechanisms that were put into motion, and also the degree to which this was done.

However, we do see a change in 2007, when multiple Iraqi civilians filed lawsuits against Blackwater and demanded punishment. In this case, the Blackwater guards were legally punished and set as an example on a societal level. In this case, the U.S. State Department's choice in what mechanisms of reconciliation to employ did fit the juridical perspective, but the efforts were lacking compared to the Iraqi relatives' demands. The element of truth-seeking was seemingly fulfilled by starting investigations, but in the case of the Nisour Square incident this happened only after the U.S. State Department helped to erase the evidence of the shooting. This is why it is not possible to conclude that truth was really what was sought in this case by the U.S. government. Although the reconciliation efforts did fit the juridical efforts made on a societal level, Trump erased this aspect by granting pardons. This wiped out both the effort of reconciling legally as well as the effort of setting an example. All in all, this analysis identifies a clear mismatch between the calls for redress and the reconciliation efforts that are tied to the different perspectives on reconciliation, the levels on which reconciliation takes place, and the axis on which it does.

Contrary to the literature discussed in chapter 1, third parties, Iraqi citizens, did not have difficulties identifying the agent, Blackwater, and their principal, the U.S. government. Neither did the U.S. government attempt to deny the allegations or rely on plausible deniability. This can be explained

by the fact that the contract between the U.S. and Blackwater was known. Also, Iraqi citizens recognized Blackwater contractors, which aided their efforts of voicing their demands.

In line with the implications and nature of PMCs discussed in chapter 1, the U.S. government did not need to compensate Iraqi victims, relatives, or the Iraqi government. Besides opening an investigation, the U.S. government focused on convincing Blackwater to compensate individuals and extend formal apologies. This is in line with the idea that the government is relatively free of repercussions due to the agent holding accountability for their actions. It can be argued that one of the repercussions of Blackwater's offensive *modus operandi* is that they undermine the long-term interests of staying in Iraq. However, the U.S. government dealt with that problem by ending the contract after years of misconduct by Blackwater.

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## U.S. MILITARY

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### RECONCILIATION EFFORTS

The mechanisms that were put into motion in the case of the involvement of the U.S. Military are similar, but resulted in different outcomes. In all three cases, the legal aspect of reconciliation came to the fore. In the case of Haditha in 2005, two out of the eight Marines were prosecuted, while the other six had their cases dismissed. One was clear of criminal wrongdoing. However, the Staff Sergeant, who led the attack, claimed responsibility for the use of negligent verbal instruction. This means he partly took *accountability*, although he did not claim responsibility for the killing or manslaughter of Iraqi civilians. Because he entered into a plea, the charges of involuntary manslaughter and aggravated assault were dropped. So now he was sentenced to 90 days in prison, had his pay check lowered, and was reduced in rank. While these reconciliation efforts were focused on achieving legal prosecution of the perpetrator, it falls short of the demands of the Iraqi relatives. Only one out of eight perpetrators had to appear in court, after which he received 90 days of prison compared to the demand for life sentences and death sentences of all perpetrators involved. While legal prosecution falls under the reconciliation mechanism of *justice*, it is clear that demands by Iraqi relatives were not met and transitional justice was not achieved. Since the case came to trial, the incident was investigated to find out what happened in Haditha, showing the court's intent to seek clarification on the events that took place that day. In a way this shows their intent to seek the *truth* of what had happened. However, the picture of misconduct that was uncovered resulted sentences that fell short to the demands by the Iraqi relatives of the victims. Also in the case the Mahmudiyah rape and killings in 2006 came the legal aspect of reconciliation to the fore. Mr. Green, who raped and killed Abeer after killing her family, received a life sentence. The other four soldiers pleaded guilty and were sentenced between 90 and 110 years in prison. After this incident, the soldiers were trialed, after which *justice* was sought in the courtroom and the *truth* was attempted to be revealed. Four soldiers, because Mr. Green, admitted to *guilt* and were punished for that.

The Ishaqi incident differs from the previous two cases, in the sense that this case was investigated by the U.S. Military, but all charges were dropped against the soldiers. Although, the U.S. Military seemed to seek the *truth*, their findings differed from the Iraqi government's investigation. The Iraqi investigation showed that there was evidence that the civilians were handcuffed and shot in their

head. However, the U.S. government did not prosecute their soldiers. Instead, the government paid condolences, showing *compassion* to the families of the victims. Also, U.S. commanders ordered ethics training for U.S. troops employed in Iraq, which would be aimed at *attitudinal or emotional change*. Whether this was actually the result remains unclear.

What is interesting about these findings is that reconciliation mainly took place from a *juridical perspective*. Multiple U.S. soldiers were brought to court and tried for their misconduct in Iraq. This indicated that the perspective that the U.S. State Department took slightly overlapped with the perspective of Iraqi civilians and the Iraqi government to the extent that all these parties focused on reconciliation as an end point that can be reached through juridical forms of reconciliation as aforementioned. This is not to say that justice was reached, but merely that the focus was on juridical solutions rather than psychological help or religious understandings of reconciliation. The reconciliation efforts were situated on both a *horizontal-spatial axis* and *vertical-temporal axis*. The punishment focused on both restoring the current relationship with the Iraq government and Iraqi civilians, while also seeking to find out what happened. In this way, the U.S. government could both improve their relations with Iraq, while also allowing Iraq and the U.S. to come to terms with the past. In this sense, the reconciliation efforts match the expectations of the Iraqi civilians and government. A match also exists on the level on which reconciliation took place. Iraqi civilians expected reconciliation to take place on a *societal level*, expecting perpetrators to be punished and condemned for their actions. This was indeed the case.

However, the mismatch lies in the mechanisms that were put into motion and the extent to which they were. While in the cases of the Haditha and Ishaqi incident, Iraqi victims and relatives demanded reparation, they never received so. Also, investigations were conducted to seek the truth, but this resulted in punishments that were far below the demands by the Iraqi relatives of victims. When they demanded the most severe punishments, which were either execution or life sentence, of eight Marines, only one was sentenced to 90 days in prison. When they demanded the death penalty for the rape and murder of Abeer and the murder of her family, four soldiers received approximately 100 years in prison, while one was sentenced to life. When they demanded investigations into the truth, U.S. investigations showed different outcomes than Iraqi investigations which suggested killings did in fact take place. All in all, while the reconciliation matched on the abstract level of what reconciliation entails, it differed on the practical level on which punishment could achieve justice for the victims.

After identifying the matches and mismatches between the calls for redress by Iraqi victims, relatives and the Iraqi government, and the reconciliation efforts made by the U.S. government, we now turn to the concluding chapter. In this last chapter, conclusions are drawn on what these findings can tell us about the differences in the reconciliation approaches by the U.S. government and attempts to give a partial explanation based on previous academic literature as discussed in chapter 1.

## CHAPTER 5: CONCLUSION

This thesis aimed to answer the research question: why do reconciliation efforts differ in instances of misconduct by PMCs and regular troops in the case of the Iraq War between 2003-2011? It also intended to uncover the sub question: what does this difference in reconciliation efforts tell us about the role of PMCs in international intervention?

What the analysis reveals is that reconciliation efforts differ in their mismatch between the calls for redress and the reconciliation efforts that were made when contractors were involved and when the U.S. Military was involved. The difference lies in the level where the mismatch took place. In the case of the involvement of Blackwater, the mismatch is tied to the perspective on reconciliation, the levels on which it should take place, and on which axis it is situated. Namely, the perspective of the U.S. government did not match with the judicial perspective of Iraqi victims, relatives, and government. The U.S. government focused mainly on financial compensation paid by Blackwater without resorting to admissions of guilt or legal prosecutions. This matches the climate of impunity that contractors operate in. Prosecution could be avoided after violent acts with lethal outcomes. Moreover, the level on which reconciliation efforts were made, did not match the demands of the Iraqi victims, relatives, and government. While they demanded reconciliation to happen on a societal level, reconciliation efforts were focused on the individual level through financial compensation to victims and relatives. Also, these reconciliation efforts focused on restoring current relationships on the horizontal-spatial axis, while Iraqi victims, relatives, and government were concerned to understanding the past on the vertical-temporal axis.

In the case of the involvement of U.S. troops, the mismatch can be found in the practical solutions that were offered for reconciliation. While the perspectives on reconciliation matched, the levels on which it should take place matched, and the axis on which it is situated matched, the extent of punishment and reparation did not. The mechanisms that were put into motion to reconcile with victims and relatives fell short of the demands by victims and relatives. Iraqi victims and relatives never received reparations, neither were truth-seeking investigations satisfying in the sense that different results emerged from different investigations. Another mismatch was found in the extent to which reconciliation mechanisms were employed. Punishments were lower than demanded and some perpetrators were not even prosecuted at all, to the discontent of Iraqi victims, relatives, and government. Although mismatches were identified in all cases, the results suggest a greater overlap between calls for redress and the reconciliation efforts in incidents where the U.S. Military was involved. This is mainly due to the juridical perspective, the focus of reconciliation efforts based on both the horizontal-spatial and vertical-temporal axis, and the relative alignment on what levels reconciliation efforts took place.

By looking into the nature of PMCs and the implications of employing them compared to the state troops, we might understand why this is the case. Several aspects discussed in the literature review, came to the fore in the analysis that uncovered (mis)matches between calls for redress by Iraqi victims, relatives and the Iraqi government, and reconciliation efforts that were made by the U.S. government. Firstly, the climate of impunity allowed contractors of PMCs to use an offensive modus operandi with lethal outcomes without legal repercussions. Iraqi victims and relatives were left with

compensations that fell short of their demands. Secondly, the use of lethal methods against Iraqi civilians undermined the long-term interests of the U.S. government. In line with the idea of moral hazard, Blackwater was able to pursue its aggressive methods without complete oversight by its principal. Thirdly, the U.S. government itself faced relatively little repercussions in cases of misconduct by Blackwater personnel compared to misconduct by regular troops. The U.S. government did not take responsibility, but instead expected Blackwater to handle the issues at hand.

What the academic literature on principal-agent relationships and legal implications of hiring PMCs suggests, is that the mismatch on an abstract level could be partially explained by nature of the relationship and employment of contractors. While there is no sign of the use of plausible deniability that is made by the principal, it is clear that the U.S. government did not resort to legal solutions for the misconduct of contractors. The climate of relative impunity could explain the mismatch in the perspective that was taken. While Iraqi victims and relatives took a juridical perspective, the U.S. State Department agreed with the private company to settle the incidents financially with the relatives of the victims. The fact that a private company is involved in the waging of wars of a state results in different approaches to reconciliation, because contractors operate in an environment of impunity. An advantage for government in hiring PMCs that is confirmed in this study is the lack of repercussions. After misconduct by PMCs, the U.S. State Department ensured that Blackwater would quickly handle the aftermath of the incidents, so to continue business as usual in Iraq. PMCs play an important role in international intervention. They allow for more leeway and less repercussions for their principal. Ultimately, accountability stays with the PMC, allowing the principal to continue its policies. The U.S. government might had to sacrifice its means, i.e. Blackwater, but not yet its policies in Iraq.

But how does that explain the sentencing that were made after the Nisour Square incident in 2007? As mentioned in Chapter 1, the 2007 Defense Bill offered a way to prosecute contractors employed in Iraq. However, the UCMJ is dependent on interpretation and can be bypassed dependent on the case. This means that it is relevant to understand how reconciliation efforts are made and how reconciliation is understood by both the victims and the principals.

The findings of this thesis have implications for practice and research. Firstly, the findings show that the employment of PMCs brings legal challenges that allow misconduct to take place in foreign states. This is an important implication, because misconduct can affect peoples' lives in a disrupting way and can undermine relationships between states, between people, and between states and people. Secondly, previous literature on misconduct by the U.S. in foreign states have often not made any distinction between contractors and U.S. soldiers. However, we see that the employment of contractors have certain implications that should be taken under consideration for the sake of understanding the affects of their employment. Research on inter- and intra-state conflict should take into account these implications to offer a more nuanced understanding of the dynamics at play during conflict.

Although this thesis built on a strong theoretical and analytical framework, its limitations lie in the availability and transparency of primary source material. Despite there not always being official documents stating the claims of Iraqi victims and relatives, and the reconciliation efforts made by Blackwater, the media interviews and state documents allowed for information on these matters. The

question is to what extent these demands were actually put forward in formal ways. However, I believe that sometimes formal statements were lacking, the media gave a solid impression of the expectations of the Iraqi victims and relatives. Besides this, the U.S. State Department offered clear documents in which the reconciliation efforts were put forward. Sometimes communications were leaked which revealed the motivations to make these efforts, which provided deeper insights into the reasons for reconciliation. Even though these limitations were present, the analysis relied on multiple sources that validated the data.

For future research it would be valuable to take a closer look into the application of the UCMJ after 2007. This can reveal how the 2007 Defense Bill impacted the employment of PMCs in foreign states. It would be interesting to understand how their employment has changed over the last decade.



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