

# The Privatisation of Security and State Control of Force

**Changes, Challenges and the Case of Iraq** 

**Joakim Berndtsson** 



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## **Abbreviations**

ACEA	Arms Export Control Actee
ACOD	Armed Contractor Oversight Division
BAPSC	British Association of Private Security Companies
BMO	, 1
CPA	British Mercenary Organisation
CRS	Coalition Provisional Authority Congress Research Service
DDTC	Directorate of Defense Trade Controls
DOD	Department of Defense
DOS	Department of State
FCO	Foreign and Commonwealth Office
GAO	Government Accountability Office
IHL	International Humanitarian Law
ITAR	International Traffic in Arms Regulations
	e e
IRRF IPOA	Iraq Relief and Reconstruction Fund
KBR	International Peace Operations Association
LIC	Kellogg, Brown & Root
	Low Intensity Conflict Military Extractorists rial Invisidiation Act
MEJA MNF-I	Military Extraterritorial Jurisdiction Act
MOI	Multinational Force Iraq
MOD	Ministry of Interior (Iraq) Ministry of Defence
MPRI	Military Professional Resources, Inc.
PCO	Project and Contracting Office
PMC	Private Military Company
PMSC	Private Military and Security Company
POI	Peace Operations Institute
PSC	Private Security Company
PSCAI	Private Security Companies Association Iraq
PSD	Protective Security Detail
ROC	Reconstruction Operations Centre
ROE	Rules of Engagement
RSO	Regional Security Office
RSSS	Regional Security Support Services
RUF	Rules for the Use of Force
SAIC	Science Applications International Corporation
SAS	Special Air Service
SIGIR	Special Inspector General for Iraq Reconstruction
TSC	Transnational Security Corporation
UCMJ	Uniform Code of Military Justice
USAID	United States Agency for International Development
QRF	Quick Reaction Force
WPPS	Worldwide Personal Protective Services

#### 1. Introduction

Around noon on Sunday, April 4, 2004, a fire fight broke out at Camp Golf, home of the regional headquarters of the Coalition Provisional Authority (CPA) in the city of Najaf, situated some 160 kilometres south of Baghdad. Besides the CPA headquarters, Camp Golf also housed an Iraqi police station, a contingency of Spanish and El Salvadoran troops and several American military police. In addition, there were eight civilian employees of the American company Blackwater Security Consulting<sup>1</sup> working under a US government contract to protect CPA buildings and personnel in Iraq, including the then top US administrator and head of the CPA, L. Paul Bremer III. At the time, there were also a few US marines at the complex working on the base's communications equipment. From the rooftop of the CPA building, Blackwater employees coordinated the defence of the building. Together with a few El Salvadoran and US soldiers, they fought for several hours, firing thousands of rounds of ammunition and hundreds of 40mm grenades to fend off the attackers. Unable to obtain support from the US military, Blackwater contractors called on the company's own helicopters to re-supply ammunition, bring in reinforcements and evacuate the wounded. When the fighting ended, an unknown number of Iraqis and at least one El Salvadoran and one US soldier were dead and as many as 200 people were wounded (Barstow 2004a and 2004b; Fisk 2004; Priest 2004; Pelton 2006: 147-154; Scahill 2007: 122-132).<sup>2</sup>

The Najaf incident evokes a number of questions and concerns related to the employment of private security companies (PSCs) in armed conflicts such as Iraq. For instance, while it has been officially stated that private security companies working for the US government in Iraq provide only "non-military" "defensive services", the involvement of civilian contractors in a three-hour long fire fight appears to fall outside both of these terms (Rumsfeld 2004). As Patrick Toohey, vice president for government relations at Blackwater, pointed out in a *New York Times* interview shortly after the events in Najaf, the line between offensive and defensive "is getting blurred" (Barstow 2004b). The same can be said of the lines between public and private or between military and civilian actors and structures.

Blackwater Security Consulting was formerly part of Blackwater USA and is currently part of Blackwater Worldwide. For sake of convenience, the company will henceforth be referred to as Blackwater.

<sup>&</sup>lt;sup>2</sup> There are different accounts of who fired the first shots in Najaf on April 4, and reports diverge on the number of people killed or wounded. Also, there are contradictory reports about the intensity of attack on the CPA headquarters (e.g. Isenberg 2008a: 78). There is, however, little doubt about the active engagement of the Blackwater personnel in the shooting, especially since a number of video recordings and images of the event have been widely posed on Internet video sites such as Youtube and Google videos.

Citing another case of a CPA building being attacked, this time in the Iraqi city of al Kut in April 2004, Dominick Donald observes how the use of PSCs under some circumstances can create a complex security picture including an array of different state and non-state security providers operating side by side but with different tasks and for different employers:

When Mark Etherington, the CPA Governorate Coordinator in Kut in 2004, found his headquarters under attack, its garrison included Ukrainian, Polish and US military personnel (part of the Coalition), and operators from Control Risks (his PSD [Personal Security Detail] as part of a contract with the FCO) and Triple Canopy (fulfilling a contract to train Iraqi security forces). (Donald 2006: 15 n. 34)

Again, the division of roles and responsibilities between public and private actors were unclear and once more, private security company personnel found themselves playing key roles in the effort to fight off the attack and later to evacuate the CPA compound and its staff (Etherington 2005: 171-193; also Pelton 2006: 154-165). In both Najaf and al Kut, the blurring of lines between actors and functions and the involvement of PSCs in activities conventionally associated with the military begs the question of how the instruments and use of armed violence are organised and controlled under these circumstances, and by whom. In Najaf, Blackwater employees were reportedly coordinating the defence of the CPA building (Pelton 2006: 150). If indeed this was the case, it suggests that civilian employees of a private company assumed at least partial and temporary control over US and coalition soldiers in a combat situation. Even if the Blackwater employees were not officially in command, their involvement in military-type activities runs counter to established assumptions about war as the business of states and national armed forces, and calls into question the idea of public or state control of the use and instruments of violence - particularly in the context of armed conflict. This investigation will show how the privatisation of security in a case such as Iraq complicates the distinctions between public and private actors and responsibilities and how it changes the basis for state control of force.

The incidents referred to above need to be understood as part of a larger trend. Since the early 1990s, state and non-state actors trying to mitigate perceived threats to people and assets in different environments across the globe have become increasingly willing to turn to private security companies for protective and security services. As a result, the global market for security services – ranging from the less noticed unarmed guards patrolling office buildings at night to the more controversial armed escorts of government officials in war zones – has expanded significantly. With an estimated annual growth of about 7 percent since 1990, the global market for security services has developed into a versatile, global, multi-billion dollar industry (Vines 2000; O'Brien 2000a; Securitas Annual Report 2006). In research, this development has been suitably characterised as a privatisation of security, basically denoting a process whereby private sector actors

are called upon to perform tasks traditionally construed as being the responsibility and function of the state and state agencies such as the police or the military. While instances of security privatisation are found in most societies around the world, the international debate has often focused on what is arguably the most conspicuous expression of this development, namely the hiring of private companies to provide services in and around zones of armed conflict.

In the 1990s, the active engagement of self-proclaimed military companies such as Executive Outcomes (EO) and Sandline International in the wars in Angola and Sierra Leone placed the provision of armed security and military services by private companies in the international spotlight and shaped much of the early debate and research. Although both of these companies are now defunct, and even though there are currently very few companies explicitly willing to engage directly in combat operations, the use of PSCs in armed conflicts for other purposes – the centre of attention in this study - shows few signs of diminishing. In fact, companies offering services in high-risk environments have flourished in recent years, particularly since the onset of the wars in Afghanistan (2001) and Iraq (2003). Because of the heavy reliance on private security companies by states and private companies in Iraq, the conflict has developed into the most extensive representation of this trend in recent decades. In Iraq, it has been estimated that between 20,000 and 48,000 people are employed by private security companies supplying a wide range of armed and unarmed services to coalition state agencies and private companies working on reconstruction projects (e.g. GAO 2006). That security privatisation in the case of Iraq has attracted considerable attention is understandable; the sheer number of people engaged in a single case has led some commentators to describe private security companies and their employees in Iraq as constituting "the second largest member of the 'coalition of the willing" in what has been labelled the "first privatised war" (Avant 2005: 8; Economist, March 29, 2003).

In the past decade, researchers have done much to improve the theoretical understanding and empirical knowledge of the privatisation of security (and/or war), as well as to move the debate beyond the narrow focus on connections between PSCs and the concept of mercenaries that shaped much of the early research and debate in the 1990s. The growing literature on security privatisation cuts across multiple disciplines and problem areas, and a number of varied questions and issues related to the role of privatised security in different contexts have been identified and addressed. These include, but are not limited to: the influence of PSCs on the perception and understanding of security problems and the formulation of security policies (Leander 2005 and 2007); the creation and impact of transnational networks of private security experts/professionals or "epistemic communities" (Jones 2007); security privatisation and the biopolitics of security (Lobo-Guerro 2007); privatisation and security sector reform in developing and post-conflict societies (Abramamsen and Williams 2005, 2006 and 2007; Krahmann 2007); the impact of PSCs on the changing nature of war

and warfare (Duffield 1998 and 2001; Singer 2003; Münkler 2005); the problems of regulating PSCs nationally and internationally (Zarate 1998; Nossal 2001; Whyte 2003; Schreier and Caparini 2005; Kinsey 2005; Holmqvist 2005; Percy 2006 Isenberg 2007; Doswald-Beck 2007); and the consequences of privatisation for civil-military relations and state control of force (Mandel 2002; Singer 2003; Avant 2005; Alexandra, Baker and Caparini 2008). Yet because research in this field is still in many ways in its early stages and because the privatisation of security is evolving, many questions remain only partially answered and show a want of further investigation.

In the growing literature on the privatisation of security, several authors are linked together by the basic and highly relevant observation that the increasing use of private companies to provide security and military services represents a challenge to established conceptions of the sovereign state as a monopolist of violence and related assumptions about the primacy of states in the provision of protection and the business of war (e.g. Mandel 2002; Singer 2003; Avant 2005; Kinsey 2006; Chesterman and Lehnardt 2007). Departing from this general observation, the primary contributions of this thesis will be, firstly, to problematise security privatisation in relation to ideal versions of the sovereign state by showing how the use of PSCs calls into question assumptions about the state and violence, and how it obscures distinctions between public and private actors and structures. Secondly, it will contribute to the knowledge and understanding of the privatisation of security by mapping out how PSCs are used in a case of violent conflict, and by showing how this practice changes the ability and readiness of states to control the instruments and use of force.

#### 1.1. The Research Problem

As indicated above, this thesis is concerned primarily with the problem of state control of violence. A basic argument that motivates this focus is that the privatisation of security, meaning the employment of private companies to supply security- and military-related services, changes the basis for public or state control of the instruments and use of force. The notion of state authority and (democratic)

<sup>&</sup>lt;sup>3</sup> At this point, a note on the concepts of *violence* and *force* is in order. In the literature on security privatisation, the meanings of and distinctions between force and violence are rarely discussed, and leading authors in the field such as Avant (2004 and 2005) and Singer (2003) have used the terms interchangeably. This thesis will follow their example; terms such as "the use of force" and "the use of violence" will be treated as synonymous. Building on dictionary definitions, violence is viewed here chiefly as "the exertion of physical force so as to injure or abuse" whereas force is understood correspondingly as "violence or threats of violence, compulsion or constraint exerted on or against a person or a thing" (*Penguin New English Dictionary* 2000: 547, 1573). Basically, the focus is on what Galtung and others would call a "narrow" or "restricted" conception of (direct or physical) violence

control over violence is deeply rooted in politics and research alike – not least in the West. For instance, in the foreword to the 2002 British Green Paper *Private Military Companies: Options for Regulation*, the then Foreign Secretary Jack Straw wrote: "The control of violence is one of the fundamental issues – perhaps the fundamental issue – in politics" (Foreign and Commonwealth Office, 2002: 4). Perceptions such as this one are common and can be traced back to different versions or interpretations of Max Weber's early twentieth century image of the nature of the relationship between the modern state and violence:

Violence is, of course, not the normal or the only means available to the state. That is undeniable. But it is the means specific to the state. And the relationship of the state to violence is particularly close at the present time. In the past the use of physical violence by widely differing organizations – starting with the clan – was completely normal. Nowadays, in contrast, we must say that the state is the form of human community that (successfully) lays claim to the *monopoly of legitimate physical violence* within a particular territory (Weber 2004 [1919]: 33, emphasis in original).

The idea(l) of a state monopoly of violence – concisely outlined by Weber but also implied in earlier influential works on state such as Thomas Hobbes's *Leviathan* (1985 [1651]: 227ff) – has proven tremendously influential in social science, not least within the state-centric or so-called realist branch of International Relations (Paul 1999; Dunne 1997). According to realist conceptualisations or descriptions of the modern state, it is essentially "the *only* legitimate wielder of force in society" (Buzan *et al.* 1998: 51, emphasis in original). The monopoly of violence is portrayed as the "hallmark of the state" and a (if not *the*) defining characteristic of sovereign statehood that sustains the state's position as the principal actor in the international system (Thomson 1994: 151; also Gilpin 1981: 17). Consequently, the use of armed force and the waging of war are essentially understood as affairs of state and of tax-financed agents of state institutions such as the police or the military (Singer 2003: 7f). In a similar vein and essentially as a

(

(see Galtung 1969; also Coady 1999; Keane 2004: 33ff). Having said this, it should be pointed out that this choice is not without problems; the terms are still contested and the relationship between violence and force has been described as "one of the most debated issues in the literature on violence" (Bufacchi 2005: 195). For instance, Hannah Arendt has suggested that the concept of force be dissociated from violence and reserved for "the energy released by physical or social movement" (Arendt 1970: 45). Others see force and violence as related/inseparable but not the same: there are acts of violence (e.g. murder by poisoning) that do not include the use of force, and there are instances when force does not include violence (e.g. rescuing someone from drowning) (Bufacchi 2005: 195). Still others link force to "legal" or "legitimate" institutions/actors (e.g. states) while violence is seen as "illegal" or "unauthorized" (for critical discussions, see Cotta 1985: 53ff; also Tilly 2003: 27f). While all of these aspects merit further discussion and provoke questions about the use of the terms in the debate on security privatisation, addressing these questions would require considerable space and carry the present investigation slightly off course, which is why this particular stone will be left unturned.

result of its monopoly of violence within its territory, the state is considered the chief provider of protection against internal and external threats to society and its citizenry. From this perspective, Kenneth Waltz bluntly concludes, "[c]itizens of states need not defend themselves. Public agencies do that" (Waltz 1979: 104).

The recent development of non-state forms of security and protection poses serious challenges to these state-centric or realist conceptualisations of the modern state and particularly to the enduring and prevalent ideas about the monopolistic relationship between the state and violence, to paraphrase Weber. In turn, this means that the roles and functions conventionally attributed to the sovereign state and its institutions need to be reassessed. Not only does security privatisation correspond badly with Weberian conceptions of a state monopoly of violence, it also calls into question widely-held perceptions about the state's exclusive role in the security sphere and realist or "Clausewitzian" views of war and warfare as belonging to the domain of states and their national armies. Expressed differently, it has been argued that with privatisation, the assumption that the "control, sanctioning, and use of force fall to states" becomes increasingly difficult to sustain (Avant 2005: 1). In this perspective, the outsourcing of military- and securityrelated tasks to private companies challenges state-centric perspectives precisely because the control over and use of force fall not only to states and state institutions but sometimes also to private security companies in the hire of state agencies or other private companies. On a general level, then, security privatisation leads to the question of changes in and challenges to the relationship between the state and violence.

Before elaborating on these changes and what they might entail, it is essential to emphasise that the privatisation of security cannot be construed merely as a phenomenon that signals the breakdown of the state monopoly of violence. Doing so would mean giving in to an oversimplified reading of Weber and an ahistorical and misleading representation of the state and non-state forms of security. As will be shown, the idea and meaning of a state *monopoly* is in itself problematic and "historically contestable" (Tilly 1992: 70). Undoubtedly, the ability of states to amass and to place under their control the instruments of violence and coercion, 4 as well as the "delegitimisation" of different forms of non-state violence, have been central to their rise to prominence. However, few if any states in history have been able to secure and maintain fully-fledged monopolies of violence, and different forms of non-state violence and protection have always been, to varying

<sup>&</sup>lt;sup>4</sup> Coercion is understood here basically as the "use of threats to pressurize another actor to do something against their wishes or not to do something they had intended to" (Freedman and Raghavan 2008: 216). Activities ranging from child rearing to crime control and nuclear deterrence include elements of coercion (ibid.). The means of coercion include (the actual or threatened use of) armed force, but also "incarceration, expropriation humiliation, and publication of threats" (Tilly 1992: 19).

degrees, available and used in the international system (Mockler 1969; Thomson 1994; Taulbee 2000; Percy 2007a). Historically, the employment of non-state actors to wage war or to provide protection has attracted relatively little attention because, as Weber in fact indicates and as Shearer has pointed out, it was widely accepted as "normal practice" (Shearer 1998: 13).5 To understand contemporary security privatisation and uses of non-state forms of violence and protection, a wide perspective is crucial. From a broad view and contrary to much work in the realist tradition, the monopolistic relationship of the state to violence is seen here as a modern ideal and as an exception; it is not a static or timeless attribute of the state, nor did it develop in a uniform, linear fashion (Tilly 1992; Thomson 1994 and 1995; also Edmonds 1999). Even so, efforts to "contain violence within collective structures" has been, and continues to be of central importance; to many observers, the idea that states should strive to (democratically) control the use of force is key because, as Avant observes, it has "provided the best (even if highly uneven) mechanism human kind has known for linking the use of force to political processes and social norms" (Avant 2005: 3).

While it is reasonable to think of an increasing privatisation of security as a challenge to the conventional or dominant image of the modern state, this development should not be treated as exceptional, unnatural or entirely novel. In a broad perspective, it is more helpful to think about post-Cold War privatisation as "an extension of private military activity from the past, rather than as a sharp deviation" (Mandel 2002: 34; also Taulbee 2000: 436). In essence, it will be argued, the privatisation of security is an indication of change in the continually shifting relationship between the state and violence, and a challenge to the ways in which the roles and functions of the sovereign state in relation to security issues and the use of force have frequently been conceptualised. Hence, instead of signalling the decreasing relevance of the sovereign state, the privatisation of security points to changes in state-violence relationships and in the institutional structure of state sovereignty. Even though non-state forms of security and protection are by no means new, privatisation does suggest a transformation of the ways in which protection is provided, how states control the instruments and use of force, as well as in the structure and organisation of the instruments of force.

Drawing on Lundqvist (1988), the privatisation of security is seen here an increasing reliance on private actors for the *production, financing and/or regulation* of security- and military-related activities and services that have been, or been seen as, "public goods". This privatisation process entails the diffusing of functions

<sup>&</sup>lt;sup>5</sup> That the use of, for instance, mercenaries was widely accepted up until the nineteenth century certainly does not mean that that it was a *universally* accepted or established practice. As Sarah Percy has shown in her study of the history of the norm against mercenaries, anti-mercenary sentiments can be traced as far back as the twelfth century (Percy 2007a).

and decision-making to a larger number of actors, making the distinction between public and private actors and areas of responsibility more complex (Avant 2005). In turn, privatisation can create problems of accountability and (democratic) oversight, as well as difficulties of coordination and communication between different state and non-state actors (Lundqvist 2001; Isenberg 2007 and 2008). The privatisation of security is a process whereby private actors are called upon take on (supposedly) public functions and private-sector methods and market mechanisms such as profit and competition are introduced into parts of the public sector dealing with issues such as national security and policing (Bislev 2004: 599; Avant 2004). Many of the potential problems linked to privatisation are likely to come to a head in the context of armed conflict, making security privatisation in war an important area of study. To connect security privatisation to the issue of state control, it has been fruitfully analysed through the lens of civil-military relations theory, where the state's control of the military is a central theme. In this context, Peter Singer has perceptively observed that the privatisation of security upsets the "civil-military balance" and thus the basis for state control by introducing a private sector element into the civil-military mix (Singer 2003: 191).

Developing this thinking, Avant argues that the concept of state control of force can be connected to three basic themes or dimensions found in the early work on civil-military relations theory by Huntington (1957), Janowitz (1960) and Finer (1988 [1962]). The three dimensions of control are: functional control which is about the capabilities and effectiveness of the armed forces; social control which deals with the integration of the use of force with social norms and values such as democracy, international law and human rights; and political control, meaning the subjection of the use of force to political or civilian rule and decisions (Avant 2005: 5ff). Applying a three-dimensional concept of control allows for a more structured and comprehensive understanding of the potential impact of security privatisation on state control of force. In other words, because this approach incorporates different aspects of control, it facilitates a more detailed and specific analysis of the connections between security privatisation and state control.

To sum up, this thesis agrees with the argument that the privatisation of security represents a challenge to dominant state-centric ideas about and conceptualisations of the state – particularly its supposedly monopolistic relationship to violence. The basic point of departure is that security privatisation alters important aspects of this relationship and thus the basis for state control of force. However, changes brought about by privatisation cannot be understood by reference to the abstract and essentially modern ideal of a state monopoly of violence; security privatisation also needs to be understood in relation to, and as a continuation of, past changes in the relationship between the state and the instruments and use of force. Analysing historical variations and changes can shed additional light on current instances or cases of security privatisation and on its significance for state control.

#### 1.2. Aim and Research Questions

Empirically, this thesis will focus on the use of private security companies by states in the context of armed conflict. Departing from the central observation about privatisation and the shifting relationship between the state and violence, the thesis will strive to achieve two interconnected aims: Firstly, it aims to situate the post-Cold War privatisation of security in a wider historical context and in relation to instances of past and present changes in the relationship between the state and violence. Secondly, the thesis aims to investigate empirically how privatisation has transpired in Iraq and to identify challenges and changes linked to state control of the use and instruments of force.

These aims are tied together by the argument that in order to make sense of the recent development towards privatisation, current practices need to be understood in a broader perspective of state formation and change, where ideas about the nature of the relationship between the state and violence are placed at the forefront of the investigation and problematised. Concisely put, the centre of attention is the linkages between security privatisation and changes in state-violence relationships, expressed as state control of force. To specify this thinking and to provide structure to the project, the following questions will guide the investigation:

- 1. How has the relationship between the state and the instruments and use of violence shifted historically and how are these changes related to the contemporary privatisation of security?
- 2. How is security privatisation realised in the context of armed conflict and particularly in terms of the production, financing and regulation of security- and military-related services?
- 3. What changes and challenges to state control of force can be identified in the process of security privatisation?

The first question is twofold and centres on the historical context of the phenomenon at hand, and it sets the scene for the subsequent empirical part of the investigation in two important ways: Firstly, it connects the larger theoretical theme of the relationship between the state and violence to processes of state formation and the gradual monopolisation of the means and use violence by states. Secondly, it establishes links between past and present practices and structures related to the use of non-state violence and protection. The second question focuses on the current status of the state-violence relationship in a specific context (i.e. Iraq); it deals with the empirical reality of privatisation, and is aimed at providing insights into the ways in which the utilisation of private companies by states and state agencies is realised in the context of armed conflict. Here, the focus is on identifying and discussing major privatisation patterns and combinations of public and private actors and structures created through security

privatisation. This leads on to the final question, which aims to point out changes and challenges to state control of force and to connect back to the issue of changes in the relationship between the state and the instruments and use violence.

Addressing these questions will provide important input into the key issue of state control of force: Firstly, an analysis of post-Cold War privatisation that takes the broader historical perspective into account helps dispel common assumptions about the sovereign state, violence and security - particularly in terms of the primacy of states in the security sphere and their monopolistic position vis-àvis the instruments and use of force. Secondly, by mapping out major patterns of privatisation in the Iraq case, the thesis will contribute much-needed insights into the ways in which security privatisation occurs on the ground and how this process affects distinctions between civilian/military and public/private actors and structures. The use of PSCs to perform military- and security-related tasks has resulted in an intricate and shifting mixture of public and actors and structures, where distinctions between what is publicly or privately produced, financed and regulated activities and services become difficult to maintain. In turn, this reveals the volatility of such distinctions on a more general level and signals a change in the structure and meanings of state-violence relationships and sovereign statehood. Thirdly, this project will identify a number of changes and challenges to state control of force associated with security privatisation in Iraq. Knowledge about the impact of security privatisation on different aspects of state control and civil-military relations is of the first importance to the debate on the consequences of privatising security, as well as to the discussion on viable ways of regulating or controlling the security industry nationally and internationally. This thesis will show that the impact of security privatisation on state control of force is complex and does not yield straightforward answers. Although the use of PSCs in Iraq has resulted in serious problems of state control, the practice does not appear to be vanishing but instead becoming gradually more institutionalised. This development, it will be argued, is a further indication of change in the relationship between the state and violence and illustrates well the increasing importance of commercial actors in relation to issues of security and protection.

#### 1.3. Limitations and Delimitations

The privatisation of security – understood here as involving the increasing use of private companies to provide security- and military-related services to state and non-state clients – is a large field of research with many possible theoretical and empirical paths to follow and gaps to fill. Inevitably, however, constructing a coherent research project means that choices have to be made that leave a number of stones unturned and that prioritise certain aspects or issues over others. One important choice is the focus on private companies which essentially means that many other contemporary forms of non-state violence and protection such as vigilantes, guerrillas, warlords

and mafias essentially fall outside the scope of the present study. While these actors have been fruitfully included in analyses of the privatisation of security (or war) in a wider sense (e.g. Volkov 2002; Mehlum *et al.* 2002; Møller 2005; Münkler 2005; Percy 2007a), this project deals primarily with registered corporate entities that sell their services and expertise on a more or less open market.

Moreover, this is first and foremost a study of security privatisation in the context of armed conflict and not (as could well have been the case) in stable or postconflict societies. The reason for this choice is simple: focusing on the "sharp end" of private security is essential and urgent because of the many gaps in the knowledge about the role, function and impact of PSCs in armed conflict and in relation to the use and control of force. Certainly, much has been written about the prospects and problems of privatisation in armed conflict. However, the answers to questions about the impact of this development are still incomplete and often based on sketchy, anecdotal or insufficient data (Mandel 2002: 4; Kinsey 2006: viii). Yet while this choice of focus can be easily motivated, it does limit the scope of the investigation. The most important limitation is that very little attention will be paid to important and related aspects of security privatisation outside the context of armed conflict. Thus, the dynamics of day-to-day or "mundane" private security or private policing will essentially be left out, as will the role of security privatisation in transitional or post-conflict societies (Abrahamsen and Williams 2007; Wakefield 2003).

In addition, this thesis will contribute a qualitative study of one particular case of security privatisation in armed conflict, namely Iraq. The choice of Iraq (discussed further in Chapter 2) is motivated primarily by the fact that it contains an unparalleled number of private security companies performing a wide range of armed and unarmed security services on behalf of state and non-state clients. Hence, the extent of security privatisation in this case makes it interesting to research. Also, since much of the hiring of PSCs in Iraq is done by US and, to a lesser extent, UK state agencies, and because the lion's share of the PSCs are either British or American, the case is important because both state clients and PSCs in Iraq are likely to lead the way on what is or what might become perceived as acceptable and/or legitimate practices in the international community. In relation to the Iraqi case, the period studied in this project ranges from the onset of the war in March 2003 until the end of 2007. That the case is studied over time – even if the selected period is only about 5 years – is important because of the number of events and changes have occurred that affect privatisation patterns and issues of state control.

Although much has been written on the case of Iraq in academia and elsewhere, the lack of reliable basic data means that much more work needs to be done to expose the changes and challenges associated with security privatisation. Also, many conclusions about the case of Iraq have been drawn on the basis of

questionable or at least incomplete data, making the need for additional research even greater. Focusing on a single case means that this project aims to contribute detailed, in-depth knowledge of security privatisation in Iraq. Of course, the use of a single case cannot yield the same basis for making generalisations as would a comparative (or large-n) study. On the other hand, as argued above and as will be developed further in Chapter 2, the lack of systematic data concerning security privatisation in Iraq, coupled with the agenda-setting potential of the case, provides motivation for a single case study. Essentially, then, this is not a comparative study, even though references to other cases will occasionally be made to place security privatisation in Iraq in context.

Finally, in the historical overview, state formation and monopolisation of violence will be discussed primarily in a European setting with a focus on the period from the sixteenth century onwards. This means that in terms of state formation and change, this thesis will display what may be seen as a European or Western bias. This choice is motivated chiefly by the fact that the thesis takes issue with prevailing images of the so-called "Westphalian" or "European" model of the state and its rise to prominence as the dominant form of social organisation in the international system. It is in relation to a critical reading of this history and the ideal model of the state associated with it that the current investigation of security privatisation is set, and it is in relation to two realisations of this model (the US and the UK) that the issues of privatisation and state control will primarily be analysed. Of course, the Westphalian or European model of the state did not develop in isolation or without influences, but it is the model that – albeit in different shapes and forms - became the norm throughout the world and that served as a model for dominant thinking on the relationship between the state and violence (for discussions of some of these issues, see Finer 1997a: 87ff; Tilly 1992: 16, 192ff, also Hettne 2003). Finally, the historical perspective adopted in this thesis will chiefly be theoretical, with a limited set of empirical and contextual observations to illustrate central points. This thesis does not provide a new history of the state; what is offered is a critical reading of dominant ideas about the state and violence through secondary sources that emphasise the non-linear character of state formation and the varying relationship between states and violence across time and space. In other words, history is used in this project to provide a nontraditional account of state formation processes with a focus on state-violence relationships, and to develop a critical and historically grounded perspective that facilitates a better understanding of contemporary security privatisation.

#### 1.4. Thesis Outline

The task of the next chapter is to outline the descriptive and exploratory approach of this study and to develop the research design. In this chapter, some of the major choices and methodological concerns such as case selection, the quality and

availability of data, interviewing techniques and ethics, as well as the collection of primary and secondary material will be brought to the fore and discussed. In the subsequent chapters (3 and 4), the analytical and conceptual framework of the thesis will be developed. One important undertaking in these chapters is to specify the study's use of central concepts such as the state, violence and (private) security. Doing so will also lead to a discussion of how the relationship of the state to violence is understood in this thesis. Moreover, the chapters will explain how the present study relates to the theoretical work conducted by other researchers in the field of private security and in particular how it will make use of theories and concepts related to privatisation and state control of force. Last but certainly not least, the theoretical and conceptual chapters will address the critical question of how to define and delineate the private security industry.

Chapters 5 and 6 will address the first research question by placing the changing relationship between the state and violence in a wider perspective and in relation to the privatisation of security. The intention is thus to provide a historical background to the current trend towards privatisation, but also to develop the theoretical discussion on the state and the instruments and use of violence. Chapter 5 will concentrate on the changing relationship between the state and violence in relation to state formation processes (in Europe) and the "monopolisation" of violence in the hands of states. In the course of this chapter, emphasis will be placed on the non-linear character of state formation, as well as the variable nature of the relationship between the state and the instruments of violence or war. The chapter will also point to the prolific use of non-state actors such as mercenaries by central powers throughout history, as well as to the demise of these practices in the course of state consolidation and the creation of national standing armies. Chapter 6 will address the expansion of the post-Cold War market for military- and security-related services. Drawing on previous studies about this development, the chapter will link security privatisation to events and processes such as the end of the Cold War, globalisation and the changing nature of war. Through these chapters, a comprehensive image of the varying nature of the sovereign state and its relationship to violence will emerge, paving the way for a more balanced interpretation of security privatisation today.

Moving on to the second research question, the main task of the following chapter (7) is to identify the ways in which security is being privatised in the context of the Iraq conflict. Here, focus is primarily on the use of PSCs by US and British state agencies. To guide this analysis, the chapter will utilise a simple model for identifying and studying privatisation patterns based on the aforementioned division of the privatisation concept into the three basic categories of production, financing and regulation. By mapping out basic privatisation patterns or mixes of public and private, as well as changes to these patterns over time, this part of the investigation will provide a detailed image of what is being privatised in the case of Iraq, how this and complicates the possibility of maintaining divisions

between public and private (or state and non-state) actors and structures, and how it relates to the question of state control of force. Drawing on these insights, the second empirical chapter (8) will address the question of state control of force in the context of the Iraq conflict. Utilising the three-dimensional concept of state control mentioned above, this chapter will identify changes and challenges to the functional, political and social control of force. In this part of the analysis, information gathered through interviews with people on different levels of the security industry will be of central importance, as will reports and documents from US and UK government agencies and officials. Finally, Chapter 9 will summarise the answers to the research questions discuss avenues for future research based on the findings of this study.

#### 2. Research Methodology and Design

There are many obstacles that make systematic research into the use of private security companies difficult and that limit the range of viable methodological choices. Firstly, secrecy and confidentiality are central concepts in the private security industry. This means that PSCs and their clients are often apprehensive about inquiries into their organisations and activities. As a result, there are substantial gaps in the literature regarding basic issues such as the number, size and structure of companies, as well as the specific contents of business contracts. Secondly, the debate on security privatisation (both in and outside academia) is often highly polarised, sometimes prejudiced and not infrequently sensationalist. For some, PSCs remain "the epitome of the 'Dogs of War" while for others, they represent "the new vanguard of international security" (Jones 2006: 355). Hence, the frequent "rush to normative judgement" about the privatisation of security as either good or bad has "impeded analysis of the range of privatization's effects and clouded understanding of the dilemmas associated with private security" (Avant 2005: 254). In short, images of PSCs and their activities often tend towards extremes, making it difficult to pursue balanced analyses. Thirdly, because the post-Cold War privatisation of security is a fairly recent and evolving phenomenon, research is still grappling to come to terms with the nature of the security industry and its actors, and fairly little is yet known about the short- and long-term impact of this development on different (e.g. state or regional) levels of the international system. Finally, and related to the previous point, established theories and analytical frameworks - when they have been applied - have frequently been found to be ill suited for many of the issues and complexities of security privatisation (for discussions of these issues, see e.g. Percy 2007a: 2ff; Kinsey 2006: viii, 1-8; Singer 2003: viii-x; Mandel 2002: 1ff; O'Brien 2000a).

As can be readily seen—and as will be developed further below—these circumstances present researchers with a number of methodological limitations and difficulties. For instance, because systematic data on PSCs and their activities are in short supply, and because of the difficulties of collecting such data, the possibility of adopting a hypothesis testing approach using primarily quantitative data is severely limited. Even though it is important to point out that these limitations do exist and to discuss their implications for individual research projects, it is equally important that researchers strive to overcome them. As Robert Mandel rightly points out, the need to increase knowledge about security privatisation is "too pressing an issue to wait for an approximation of perfect information" (Mandel 2002: 4). With these general but central observations in mind, the reminder of this chapter will outline in detail the research methodology and techniques relevant for this project.

#### 2.1. An Exploratory and Descriptive Approach

This study addresses the three research questions by adopting a descriptive and exploratory approach. As pointed out above, the first question is theoretical and deals with past and present shifts in state-violence relationships, while the second and third questions are empirical and deal with security privatisation and state control of force in the case of Iraq. Probing the first question, the study draws on previous research to identify linkages between state formation and change, the monopolisation of violence and the decrease of non-state violence and protection on the one hand, and the recent expansion of the market for private security and military services on the other. The aim here is not to conduct a comprehensive historical analysis but to problematise dominant or conventional images of the state and its monopoly of violence, and to create a historically grounded backdrop to the part of the investigation that deals empirically with patterns and processes of security privatisation and the question of state control of force. The sources and themes that guide this part of the study are discussed more in detail in the next chapter and in the beginning of Chapter 5. The remainder of this chapter will focus on the design of the empirical investigation of security privatisation in the case of Iraq.

The second question is empirical and focuses on the way in which security privatisation takes place in the context of armed conflict and how private security services are produced, financed and regulated. Essentially, this forms the first part of the case study of security privatisation in Iraq. A variety of primary and secondary sources provides the information needed to identify and create as comprehensive descriptions of privatisation processes and patterns in Iraq as possible. Finally, the third question – centred on the specific challenges to state control that can be identified in the process of security privatisation – is also empirical and deals with the linkages between privatisation and the issue of state control of force. Here, data collected from several semi-structured interviews with PSC representatives and employees will form an important part of the investigation. Again, the case of Iraq provides the context in which the changes and challenges to state control are explored. The main task of the subsequent pages is to explain the methodological choices made in developing the second, empirical part of the project, as well as to discuss potential problems linked to these choices and to outline the basic techniques employed to collect and analyse the data needed to answer the empirical questions.

One central argument in support of relying on a descriptive and exploratory approach is that in order to begin asking more precise questions about the nature and impact of security privatisation, more detailed empirical data and knowledge on the ways in which this development is realised in different cases and how it relates to issues such as state control are needed. As indicated above, the current status of data availability and quality is often poor, making hypothesis testing and

evaluation difficult. In other words, while there are several excellent studies on the nature and logic of security privatisation and its potential consequences, many basic pieces of the puzzle – for instance regarding the number of companies or the nature and contents of contracts – are still missing. As will be discussed below, this is true also in the case of Iraq, where events on the ground are unfolding and where more research is clearly needed in order to improve the access to (and existence of) data on security privatisation.

Although this project can be said to focus on the relationship between two main variables, i.e. the privatisation of security and state control of force, the intention here is not to measure the impact of the former on the latter. Rather, the central objective is to problematise the linkages between the variables and specifically to identify and probe potential challenges to state control of force by inferring from data collected on the case of Iraq. This thesis will make no claims to have tested causality; it will, however, develop a theoretical and empirical understanding of security privatisation and thereby generate new insights into basic relationships and the factors that shape them. This does not mean that questions of causality are avoided altogether. It means, however, that discussions of impact and effects of security privatisation are necessarily preliminary and tentative. Departing from this general approach, the empirical part of the project will rely primarily on a qualitative analysis of textual sources and an exploration of central themes and concepts through semi-structured interviews with persons in and around the private security industry. To explain these choices and to develop the methodological approach and research design of this project, the following

<sup>&</sup>lt;sup>6</sup> Two central concepts in research are validity and reliability. According to conventional descriptions, "[i]f research is valid, it closely reflects the world being described. If work is reliable, two researchers studying the same arena will come up with compatible observations" (Rubin and Rubin 1995: 85; also Bernard 2000: 46ff). To some observers, many criteria and indicators for validity and reliability - often connected to some form of measurement - do not readily fit qualitative research (Rubin and Rubin 1995: 85). Others argue that established concepts such as construct/internal/ external validity and reliability are relevant and that specific tactics (e.g. using multiple sources, addressing rival explanations) may be used to improve the scientific quality of, for instance, single-case studies relying primarily on qualitative data (e.g. Yin 2009: 40ff). As an alternative to conventional criteria and concepts, it has been suggested that the credibility of qualitative research projects - including this one - should be judged by qualities such as the transparency, consistency-coherence and communicability of a study. Transparency means that the processes of data collection are clear and easily followed. Transparency also means making possible biases and weaknesses visible, allowing the reader to gain a more comprehensive insight into the study. Consistency-coherence means that readers are able to see that the researcher has followed up and dealt with inconsistencies. Moreover, it is also a matter of coherence and consistency of themes and across cases; in short, if the researcher has made an effort to check up on contradictions and whether he or she manages to show that themes hold across cases and individuals. Finally, communicability is about keeping within the research area and making sure that the messages of the research can be readily understood by other researchers and by people outside the research community (Rubin and Rubin 1995: 85-92).

sections will deal with in turn with the issues of case selection, data availability and collection, interview design and analysis.

#### 2.2. Case Selection: Security Privatisation in Iraq 2003-2007

This is not a case study of the ongoing conflict in Iraq. Rather, the empirical part of this thesis is best described as a single-case study of security privatisation in Iraq from the onset of the war in 2003 to the end of 2007, and it focuses on the question of state control in relation to the US and the UK – the two major members of the so-called "coalition of the willing" that intervened in Iraq in 2003. There are several arguments that motivate these choices. As mentioned above, security privatisation in the case of Iraq is hitherto unparalleled in both size and scope. Thus, Iraq can be said to represent a unique or an extreme case that warrants special focus (Yin 2009: 47). The heavy reliance on private security in Iraq makes it interesting to research because of the wide range of armed and unarmed functions performed by PSCs. In turn, the extensive contracting of PSCs by state and non-state actors in Iraq to perform armed functions makes the case important in terms of exploring the impact of security privatisation on the ways in which states control the instruments and use of violence or force. Additionally, and because of the number of changes in state oversight mechanisms and regulation that have been put in place since the onset of the war in 2003, the case of Iraq also says something about the ways in which states and state agencies have acted over time to resolve perceived problems of control.

Furthermore, in the words of Christopher Beese, Chief Administrative Officer of British PSC ArmorGroup, Iraq may in fact be seen as a "defining moment for the security industry in its provision of support to armed forces and reconstruction in hazardous zones" (Interview, C. Beese, 2006). Importantly, Iraq is not merely a defining moment in the eyes of the large PSCs and their representatives; one could also argue that the use of the companies' services by states such as the US and the UK will influence the perception among other states and organisations of the desirability, usefulness and legitimacy of this practice. In this context, it has been argued that "the fact that the US (with defense expenditures greater than the next twenty-four countries combined and roughly 1 per cent of Gross World Product, GWP) has embraced private security solutions guarantees strong state demand, demand that is increasingly joined by the UK and other western states" (Avant 2005: 38). If the US is leading the way on security privatisation, it is reasonable to expect that its actions as "client" impacts on the "ecology" of the private security sector and how it is perceived (ibid: 220). Moreover, focusing on the US and the UK makes good sense since many of the largest and most successful PSCs of the post-Cold War period are of British and/or American origin. Hence, security privatisation in Iraq is important in a larger context and investigations into this particular case may uncover not only valuable insights

about security privatisation in Iraq, but also indications about future developments that go beyond the confines of the case.

Of course, several arguments can be launched against the case of Iraq as a strategic choice. For instance, it may be argued that in many ways, Iraq is an exception and that many aspects of security privatisation are unique to the circumstances of the case and thus unlikely to be repeated in the future. Because of its uniqueness, the specific characteristics of this case do not necessarily translate well to a larger population. Also, the limited access to reliable data and the fact that the case is very much ongoing adds to the difficulties of making general conclusions based on Iraq. Finally, the use of PSCs in Iraq is highly politicised and sensitive, something that makes research into the case difficult and potentially susceptible to selective or biased readings. Admittedly, one case cannot be representative. Yet, the choice of Iraq is justifiable because many aspects of security privatisation in this case are still unknown or poorly understood, and because of the potentially pivotal role of Iraq for the development of the role of the security industry in violent conflicts and for the ways in which states employ and control its services. One could object that selecting more than one case (e.g. Afghanistan and Iraq) would remedy at least some of these drawbacks. This is true; a comparative approach might resolve a few of the problems discussed here, but would also mean less time to spend on each case. For the aim of this study, focusing on the development of security privatisation and issues of state control within the single case of Iraq is the preferred strategy because it provides an opportunity to contribute to a more comprehensive picture of privatisation in a case that is unique but not well understood and that appears as an important expression of changing state-violence relationships in the post-Cold War period.

#### 2.3. Data

Surveying empirical research on the private security industry, it soon becomes evident that the state of existing data leaves much to be desired and that collecting new data on security privatisation in the context of armed conflict is in many ways a challenging task. As some observers have pointed out, the lack of reliable empirical information on PSCs and their activities makes it difficult to conduct thorough and balanced analyses (e.g. Kinsey 2006: 6). This predicament, Mandel argues, creates a temptation to read selectively and thereby run the risk of reinforcing existing prejudices (Mandel 2002: 4). Following Kinsey, this project has endeavoured to overcome some of the problems related to the lack of reliable data by relying on a wide range of different sources (Kinsey 2006: 7). Hence, data have been collected from different sources such as the Internet, newspapers, official documents and a number of semi-structured interviews. Before discussing these sources, how they relate to each other and how they are used to in the effort to answer the research questions, a few words on the difficulties of collecting

certain data on PSCs and the private security industry will serve as a further illustration of some of the limitations of empirical research in this field.

There are many ways to demonstrate the ways in which the aforementioned sensitivity and secrecy that surrounds the private security industry makes it difficult to collect data on the companies and their activities. Two telling examples of the sensitivity of even the most basic questions are the "State of the Peace and Stability Operations Industry Survey 2006" and the "State of the Peace and Stability Operations Industry: Second Annual Survey" of 2007. The first survey was conducted by the IPOA (International Peace Operations Association) while the second was carried out by the IPOA-affiliated and recently (late 2006) established Peace Operations Institute (POI). The IPOA is a Washington-based, memberled trade association and advocate for companies active in what the organisation has termed the "Peace and Stability Industry" including PSCs operating in and around conflict zones. The argument here is that because both the IPOA and the POI are intimately linked to the industry, they could be expected to enjoy a certain amount of trust that would make access to the companies easier for them than for outsiders to the industry such as a researchers or journalists.

In the 2006 survey, the focus is on private security companies that provide armed services and the objective of the survey is to gather data on the number of companies, the number of employees, the services provided, the countries in which the companies are active, the identity of clients and questions of accountability and company codes of conduct (IPOA Survey 2006: 5). Out of a total of 103 security companies that were identified as the target population, only 14 companies (13.6 %) completed the anonymous survey. The low response rate was attributed to the fact that this was a pilot study and that there is a "reticence" among companies to share information that could be made public (ibid: 7; Interview, J.J. Messner, 2007). In the second survey, the target population was expanded to include "nonsecurity providers" such as logistics and mine action companies (Messner and Gracielli 2007: 10, 18f). Out of the 334 companies identified as belonging to the target population in 2007, only 23 companies completed the survey, resulting in a response rate of only 6.1 % (ibid: 13). The low response rate and the fact that many of the companies are members of the IPOA rendered the survey unreliable, non-randomised and non-representative (ibid: 12). Importantly, both of these surveys reveal the unwillingness among PSCs to yield basic information – even to their own business organisation.

The 2006 survey stated that "[m]any simple questions remain unanswered" and this statement still holds true (IPOA Survey 2006: 5). As indicated above, the lack of basic data on companies, contracts, employees etc. limits the kinds of questions that can reasonably be asked, or at least the methods used to answer them. In part, the difficulty of gaining access to basic information is a consequence of the nature of the security industry and the hesitance among companies to share "proprietary

information" that could jeopardise competitiveness (Kinsey 2006: 1f). Yet, increasing knowledge about and understanding of the private security industry does not necessarily entail surveying a representative sample of the industry for basic information (even though such information would be of central importance). As will be discussed in the course of this chapter, much can be learnt about the nature of PSCs and their activities in specific circumstances through analyses of qualitative data collected from different primary and secondary sources.

Basically, the sources drawn upon in this project may be divided into two main types: documentation and interviews (Yin 2009: 101f). More specifically, the project draws on semi-structured interviews, official documents and reports (e.g. laws and reports and documents produced by state agencies or international organisations), published secondary literature (e.g. previous research), and other material (e.g. newspaper articles, online material or reports from NGOs). The collection of information from multiple sources is important for the credibility of the study because it has made it possible to check and weigh different sources against each other – an important task considering the limited availability of reliable information on PSCs and their activities. Finally, as indicated above and as will be outlined in the following subsections, different sources are needed in order to provide answers to the empirical research questions.

#### 2.3.1. Primary and Secondary Sources of Data

In order to increase the understanding of PSCs and the process of security privatisation, particularly in Iraq, this study relies to a large extent on data derived from interviews (discussed further in the next section). The basic idea has been to conduct a smaller number of in-depth interviews with people knowledgeable about PSCs and the services they provide. A central argument is that additional insight into the realities and problems of security privatisation can be gained by looking at how PSCs describe their role as non-state providers of protection and security from an insider's perspective as it were, and how they identify and express the problems they are facing on different levels (e.g. on the operational level or in relation state-level officials). Thus, the majority of the interviews and conversations carried out for this project have been with representatives and employees of PSCs and their business organisations. Addressing the two research questions dealing with the case of Iraq, the interviews have served a dual purpose: firstly, interviewees have functioned as sources of information on how the companies work and how the process of security privatisation develops on the ground in a case like Iraq; secondly, talking to company and industry representatives have provided insights into the ways in which these non-state actors describe their role(s) and how they relate to issues connected to issues of state control.

Talking to PSCs is in line with the effort to conduct a balanced and inclusive analysis by drawing on a source of information that may provide important data but is sometimes overlooked or dismissed in the debate and research on security privatisation. Of course, this focus might in fact be seen as creating an imbalance in terms of sources and data, for instance since no state agents or representatives (e.g. politicians, civil servants or active duty military commanders) were interviewed for this project. One explanation as to why state officials or military officers were not interviewed was the difficulty of gaining access to these people and getting them to talk to an outsider about contracting or working with private security companies. This is a drawback since interviews with other actors would likely have yielded additional pieces of information and contributed to the understanding of privatisation patterns and processes. On the other hand, it was still possible to gain access to this kind of information through other sources.

Certainly, it is clear from the outset that a relatively small number (14) of interviews with PSC representatives and employees cannot comprise the sole sources for addressing the questions that are the focus of this thesis. In order to create a credible image of security privatisation in Iraq that is inclusive rather than polemic, and to analyse this practice in relation to the issue of state control of force, interviews need to be complemented by other sources and perspectives. Thus, apart from the interviews, the primary textual sources used in this project consist of different types of official documents. These include, for instance, legislation (or draft legislation) including documents from the now dismantled CPA (Coalition Provisional Authority), government or departmental reports and guidelines, records from proceedings in the British Parliament, the US Congress and various committees, and also reports from government watchdogs such as the House Committee on Government Oversight and Reform, the GAO (Government Accountability Office) and the SIGIR (Special Inspector General for Iraqi Reconstruction). In addition to these documents, some UN reports (e.g. from the Special Rapporteur and the Working group on the use of mercenaries) and international legal documents (e.g. the Geneva Conventions) have been used.

Taken together, official documents make up an important part of the effort to outline the use of PSCs by the US and the UK in Iraq and to uncover the linkages between this practice and related questions of (and changes in) government oversight and control. In other words, these documents and reports provide additional information about how PSCs are used by state actors (i.e. what services are bought) and how this usage is financed and regulated. Some of these sources

<sup>&</sup>lt;sup>7</sup> Out of a handful state officials and policy-makers in the US and the UK that were contacted, only one centrally placed state official agreed to meet and discuss issues of PSC regulation informally. However, this person could not participate in an interview due to the sensitive nature of the subject and ongoing political processes.

have several uses; for example, reports by the GAO (2005, 2006 and 2008) describe the situation on the ground in Iraq and elaborate on issues of regulation and problems of control and oversight. The reports have thus been used both as a way of gaining insight into the use of PSCs by the US in Iraq (i.e. the second research question) and as a way of pinpointing some of the linkages between security privatisation and state control (i.e. the third research question). The process of locating documents and reports was facilitated by scanning the lists of references of secondary sources and by talking to researchers and interviewees about government reports and relevant pieces of legislation.

In addition to interviews and official documents, the thesis has also made use of secondary sources, most notably the growing scholarly literature on security privatisation and the case of Iraq. These published sources have been used to support the case descriptions, to check other sources, and as a point of reference for the weighing the findings on security privatisation and state control of force. Also, secondary published sources (and other sources) have been frequently used as complements to provide additional viewpoints and to fill in some of the gaps and omissions in primary documents and the interview data. These gaps concern, for instance, descriptions of certain events involving security companies, background data on contracts, and observations on linkages between security privatisation in Iraq and issues related to the functional, social and political control of force.

Finally, this project has relied on a number of newspaper and magazine articles, material published online and reports from NGOs to complement the other sources of data. What these sources provide is complementary information on the reality of security privatisation in Iraq – for instance in reports on incidents involving PSCs – as well as a number of entry points into the question of state control. Also, the media as well as NGOs can be expected to represent somewhat different points of view on these matters than, say, the interviewees in the security industry. Moreover, the media has an advantage in that it often has access to people that many researchers do not. Hence, media reports will often include useful and interesting statements and comments by policy makers, state officials and members of the opposition on a variety of issues linked to the use of PSCs in Iraq and the prospects or problems brought about by this practice. Importantly, however, these sources are sometimes of questionable quality and need to be critically assessed.

In their discussion of "source criticism", Alvesson and Sköldberg point out that when researchers do not observe reality directly (as in actually being there), they do so through some kind of medium – a medium (or source) that distorts information in several ways (Alvesson and Sköldberg 2000: 70). Of course, this relates to all sources used in this thesis, but is perhaps especially relevant in the case of media and online material. In practice, source criticism means that the researcher needs to be aware of potential problems of *authenticity* of the material,

as well as the *biases* that influence sources, the *distance* (in time and space) between the events and the source, and the possibility of the source being influenced by, or *dependent* on, other stories and versions of events (ibid: 71ff; Esaiasson et. al. 2002: 307ff). These criteria are used by the researcher to assess the credibility of a source. Many sources reporting on PSC behaviour are heavily biased, they are far away from events and often reliant on other accounts, making their credibility as sources questionable. On the same note, PSC and security industry representatives are clearly biased in that they represent a business interest, but they are often considerably closer to events. While there is no such thing as an unbiased (i.e. neutral) or wholly independent source (or researcher), the criteria referred to here are used to assess the quality of sources, to avoid sources that distort the image of events, and to decide when sources need to be checked against each other. There will be reasons to come back to the issue of bias in the following section which will describe more in detail how the interviews conducted for this project were designed and conducted.

#### 2.3.2. Data Collection through Semi-structured Interviews

The semi-structured interviews carried out in this project build on what Rubin and Rubin have called "responsive interviewing" (Rubin and Rubin 2005: 30). This way of structuring and designing in-depth interviews draws on "interpretive" ideas and employs some of the techniques for coding and theory building associated with the "grounded theory" approach to qualitative research (ibid: 27ff; also Alvesson and Sköldberg 2000: 12ff; Bernard 2000: 443ff). Simply put, this means that interviews are geared towards deep (rather than broad) understanding, and that the design of the interviews remains flexible and adaptive throughout the research process. The basic goal is to find out how interviewees — or "conversational partners" — understand and make sense of what they have "seen, heard or experienced" and to elicit from them "examples, narratives, histories, stories, and explanations" that facilitate an understanding of objects and events (ibid: 37). This approach is in line with the effort to uncover the ways in which PSC representatives describe and understand the services they provide and their relationships to other state and non-state actors.

To specify what kinds of interviews are available to researchers, Rubin and Rubin offer two ideal types: "cultural" and "topical" interviews. Basically, the former focus on exploring issues like "the ordinary, the routine, the shared history, the takenfor granted norms and values, the rituals, and the expected behavior of a given group of people" whereas the latter concentrate on examining what happens in specific circumstances (Rubin and Rubin 2005: 9). Cultural interviews are typically more about active listening than structured questioning and the interviewee is given plenty of space and time to elaborate on examples and topics. Topical interviews, by comparison, are more structured and are used to explore specific

processes and events by asking how, why and with what consequences something has happened (ibid: 11, 54f; also Rubin and Rubin 1995: 196-225). Because this project focuses on events and processes linked to security privatisation, and on relating this development to the theme of state control of force, it has served the purpose of this study well to conduct a series of topical interviews with knowledgeable persons in the security industry, drawing on Rubin and Rubin's ideas about designing and carrying out responsive in-depth interviewing. What follows is basically a description of the process of designing of a series of semi-structured topical interviews that form part of the data collection. Before doing so, however, a few words on research ethics are necessary.

#### The Ethical Dimensions of Interviewing

Gaining access to persons in the security industry demands an open dialogue about the research project and the building of trust between researcher and prospective interviewees. Because the use of PSCs - especially in the context of armed conflict – is frequently seen as a sensitive and controversial matter, conducting interviews and forming "conversational partnerships" with people in the industry to obtain data on security privatisation should be done with careful consideration of the ethical dimensions of this kind of research (Rubin and Rubin 2005: 79). The basic starting point is that data should be obtained "in ways that to not harm those being studied" (ibid: 97; also Yin 2009: 73). To avoid unethical treatment of interviewees, this project has taken a number of precautions as recommended by Rubin and Rubin and has followed the ethical guidelines outlined by the Swedish Research Council (Vetenskapsrådet) for research in the humanities and social sciences. According to the Swedish Research Council, there are four main principles that should guide the research on humans within the humanities and social sciences: information, consent, confidentiality and usage (Vetenskapsrådet 2001). These principles, their implications and how they have been addressed in the present study will now be discussed in turn.

Firstly, the principle of information stipulates that prospective interviewees should be given detailed information about the project, its purpose and the terms of their participation before they are asked to participate in the study. Such information was included in the first letters sent out to the companies and the business organisations where interviews were requested, as well as in the correspondence with PSC employees (see also discussion on finding and talking to interviewees below). In addition, this information was repeated before each interview started. According to the second principle, it is up to the prospective interviewee to decide whether he or she wants to participate in the study. More than that, interviewees should also be informed about their right to drop out of the study at any point if they so wish. This information was also given to the interviewees before the interviewes started. None of the interviewees have asked

to be removed completely from the study once agreed to participate, although there have been some minor changes as to the terms (e.g. requests for anonymity) of participation for individual interviewees and companies.

Under the third principle, ethically sensitive information about interviewees should be confidential. Researchers are bound by professional secrecy not to reveal ethically sensitive information to people outside the project. Of course, what is ethically sensitive may differ from one context to another. In this project, the principle of confidentiality has several implications. First of all, knowing that some persons may risk their careers and reputations by participating, all prospective interviewees were given the option to take part in the study anonymously. While most PSC and business association representatives were happy to go on the record (and to let me use their names), some persons, among them PSC employees who were prohibited by their contract to talk to researchers, stated a wish to remain anonymous. To ensure anonymity, no information regarding the identity of these persons is published in this thesis. When referring to or quoting these persons, codes (e.g. Anonymous 01) are used instead of names and dates, and the key to these codes are stored safely. On some occasions, interviewees wished to go off the record while relating a specific event or talking about a sensitive issue. These portions of the interviews have been taken out of the transcripts and filed separately under fictitious names. Finally, the fourth principle states that information about persons collected for research may be used only in research and not for commercial or other purposes. Since detailed information about the participants has not been collected, this principle does not warrant special attention.

In addition to these four principles, several steps were taken to protect the participants and to balance the researcher-researched relationships. For instance, all interviewees were provided with copies of the interview transcript to read and comment on. In cases where interviews were not recorded, interviewees were consulted about the usage and formulation of quotations. Moreover, interviewees were informed that there would be an ongoing dialogue on the use of material from the interviews. In practice and following a suggestion by Rubin and Rubin, this meant that before publication, interviewees have been sent excerpts of text (where quotes from them have been used) to read and comment on (Rubin and Rubin 2005: 101). In this way, interviewees have been able to follow the treatment of their utterances and comments from the transcript and into the final text. While this dialogue with the interviewees is of central importance to maintain rapport and to ensure accuracy, participants have also been informed that though they have the right to read and comment on the use of material, I as a researcher reserve the right to make interpretations of what has been said. While none of the interviewees disagreed with my treatment of interview material, a few did ask for minor corrections and clarifications of their statements. Having thus outlined some of the most central ethical considerations in this project, the discussion will now turn to describing the task of finding people to interview for the study.

#### Finding and Talking to Interviewees

Judging from the nature of the security industry, it was clear from the outset that finding people who would be willing to talk to an outsider might become a difficult and time-consuming task. Given the time needed to locate potential interviewees and to get them to participate in the project, it was deemed reasonable to aim for somewhere between 10 and 20 interviews for this project. In the end, fourteen people were interviewed in the US, the UK and in Sweden for this project and several more were talked to informally. To identify potential interviewees, a mix of purposive (strategic) and snowball sampling was used, meaning that the aim was to look for a relatively small, nonprobability sample of persons who could be tapped for depth information on certain issues, and that people in the industry and in academia were used to find persons to talk to (Bernard 2000: 145f, 176ff). The aim was to find experienced and knowledgeable persons on different levels of the security industry that could be asked questions about the structure and activities of individual PSCs, the situation for PSCs (and individuals) providing services in Iraq, and, if possible, about the role, function and challenges of the security industry and security privatisation more generally.

To find out what companies to approach, previous research listing PSCs that were active early in the conflict in Iraq was consulted. Notably, David Isenberg's 2004 report "A Fistful of Contractors" provided a fairly comprehensive list of 68 companies, 20 of which (mainly from the US and the UK) were identified by Isenberg as the "key players" (Isenberg 2004). The strategy adopted was to start off by contacting a handful of the large and established companies since they could be expected to be accustomed to being approached by researchers and thus (potentially) less apprehensive about granting interviews.8 Letters and emails were sent to companies presenting the research project and asking for an interview. Initially, replies were few and far between. To increase the chances of getting through to the right persons at the companies, a few researchers who had conducted interviews with PSCs were contacted, and they were able to provide some tips and points of contact. Referring to these researchers as well as sending letters and emails to specific persons at the companies helped, it was possible to secure some initial meetings and interviews in the US and the UK. For the purpose of developing main and follow-up questions (discussed below) before conducting the first round of interviews, a pilot interview was conducted with a PSC employee who had been working as a PSC employee in Iraq several times since 2004.

<sup>&</sup>lt;sup>8</sup> For reasons of confidentiality, the names of the companies originally contacted will not be listed here. Some of the individuals who have agreed to participate in the project have wished to be remain anonymous and thus, not divulging the names of companies in the relatively small sampling frame is a function of the ethical obligation to protect the identity of these persons (see also discussion on research ethics above).

Here, a short note on my role as researcher is called for. In order to gain access to PSC representatives and getting interviewees to open up during conversations, "a certain degree of open mindedness about the industry" is needed (Kinsey 2006: 7). This means thinking through what my own prejudices about the industry are and how they may affect my approach and the data collected during the interviews. Aiming for balance – *not* to be mistaken for claims to neutrality – means, first of all, that the perspectives and knowledge of PSCs are respected as one important (but certainly not the only) part of the picture of security privatisation. In this light, learning about the private security industry from the perspective of the people who work in it demands a certain openness and empathy on part of the researcher (Rubin and Rubin 2005: 31ff, 82ff). Departing from the observation by Mandel that security privatisation appears to be "neither a uniform blessing nor a uniform curse", it seemed reasonable to set out in an open-minded fashion to learn more about the ways in which PSC and industry representatives describe and understand their activities and different roles (Mandel 2002: 4; also Yin 2009: 72). Striving towards a balanced analysis and reminding oneself of the "mutual influence" of interviewer and interviewee in the research relationship helps maintaining awareness of the researcher's role and influence throughout the research process (Rubin and Rubin 2005: 33). Being aware of one's position, it is also important to ask what the interviewees gain from their time and effort to participate in the study (ibid: 34). In this project, ensuring a fair and accurate reporting of the interviewees' stories as well as increasing awareness and knowledge of company representatives' and employees' perspectives and perceptions can be seen as efforts in this direction.

Knowing that companies may have reasons to view outsiders with a certain degree of suspicion, building trust was a central issue. As Rubin and Rubin point out, it is important to be seen as honest, fair, and open by prospective interviewees (ibid: 93; also Bernard 2000: 195). In addition, conducting topical research where the interviewer aims to find answers to specific questions, he or she must be seen as someone who can be trusted "to report fairly what you hear and informed enough to make the conversation worthwhile" (Rubin and Rubin 2005: 86). In an effort to build trust, the letters to the companies described the research project, the purpose of the interviews, and emphasised the ambition to maintain an open-minded approach to the industry. In some cases, however, interviews were not granted until after an initial meeting where prospective interviewees wanted to know more about the project and the proposed interviews. Basically, interviewees fall into three main categories: representatives of PSCs (e.g. company officials, CEOs etc.), employees of PSCs and representatives of security industry business associations. Of the fourteen interviewees, only one was a woman, the rest were men aged 30 and above. Most of the interviewees were very open and straightforward in their replies and did not shy away from controversial topics. The fact that the interviewees belonged to different categories is important since this

means that they have divergent views depending on whether they are company representatives, employees or representatives of business associations. Also, their different positions influence their experiences and knowledge, as well as their degree of openness and their willingness to talk about certain issues. For instance, former employees appeared more knowledgeable about the situation for PSCs on the ground in Iraq than did representatives of the business associations. In turn, these representatives were extremely knowledgeable about the politics of security privatisation in the US and the UK and were clearly interested in communicating the "industry viewpoint" to me as a researcher. All in all, while the number of interviewees in this project was small and cannot be said to be representative of the industry as a whole, the fairly varied sample did contain disparate perspectives on security privatisation.

Before going on to discussing the interview questions and themes, some final words on finding and talking to people in the security industry. Rubin and Rubin rightly point out that there are many reasons why people agree to be interviewed for research projects; for some, talking to outsiders is not a problem at all but rather part of the job. As Doug Brooks, the president of the IPOA, expressed it: "we'd talk to anyone for any reason" (Interview, D. Brooks, 2007). For PSCs and their employees, talking to researchers may be a way of facilitating a broader understanding, or getting out "their side of a story" or to have their activities "viewed in a favorable light" (Rubin and Rubin 2005: 91). The point here is not that this is necessarily problematic - after all, researchers and interviewees alike conduct or participate in interviews because they hope to gain something, be it information, publicity or something else. However, it is important to bear in mind that these reasons or agendas do exist and to think about how they might affect research relationships, the replies to interview questions and, ultimately, the answers to the research questions. In this context, it deserves to be pointed out that while interviewees have undoubtedly contributed important insights, their answers and comments essentially represent, and should be treated as, subjective interpretations or understandings of different aspects of security privatisation that are made to some extent from an "industry perspective". Though this perspective is highly important to our understanding of security privatisation, it should not be accepted as the only (or necessarily the most credible or correct) perspective.

#### Interview Questions and Themes

As stated above, the interviews conducted in this project serve the purposes of producing information about how PSCs and the security industry work, to provide insights into the ways in which PSCs describe and make sense of their activities and their role(s) as non-state providers of protection, and, finally, to understand how they relate to issues connected to the overarching theme of state control. In turn, this means that questions and themes needed to be constructed

so as to open up for discussions along these lines. In the end, the interviews – although they do not represent the sole source of data on these issues – proved central to developing the understanding of the private security industry in Iraq and PSC perspectives on issues related to state control. Also, it was in relation to the interviews that the basic themes and questions were developed that have been used as a basis for analysing much of the empirical material. This section will describe the process of generating interview questions and themes, while the issue of analysis will be discussed separately below.

To learn more about the ways in which PSCs work, secondary literature on individual companies, the case of Iraq and the security industry more generally was reviewed. From this review, there emerged a number of questions that could be asked about the services provided by PSCs, the organisation of companies, their situation on the ground in Iraq, and the ways in which PSCs relate to other actors on the ground and elsewhere. Several of these questions were tried out and developed during the pilot interview mentioned above. This initial interview was relatively unstructured and was used mainly as a way to get to know the industry better and thus be able to place informed and relevant questions to PSC and security industry representatives. As it turned out, this interview proved highly important. First of all, it offered valuable insights into the situation for PSCs and their employees in Iraq. Secondly, it provided a feel for the specific vocabulary and concepts of the security industry - something that was subsequently used to make interview questions less abstract and more relevant to interviewees. Thirdly, the pilot interview also provided useful information on what questions and themes were likely to be relevant and, perhaps more importantly, it provided hints about questions and themes that might be considered sensitive or even threatening to company representatives and that would likely generate formalistic replies or no replies at all. Fourthly and finally, it gave me as a (novice) interviewer a chance to practice follow-up questions and probes and thus be better prepared for interviewing company and industry representatives and spokespersons (for discussions of some of these issues, see Rubin and Rubin 2005: 134ff, 158f; also Bernard 2000: 196ff).

Having conducted the pilot interview, the first round of interviews with PSC and industry representatives took place in 2006 and a second round was conducted in 2007. Although the individual interviews turned out very differently, they were all based on (and reflect) a number of main themes identified in the literature and developed through the pilot interview and the initial round of interviews. Table 2.1. provides an overview of the interview themes and related main questions:

**Table 2.1. Interview Themes and Questions** 

THEME	INTERVIEW QUESTION				
1. The Debate	In the debate on private military or private security companies (both in the media and in research), there are, as you will know, a number of different views and opinions about the market and its actors. There is, to say the least, a lot of controversy still about the role of private companies, especially in armed conflicts. What is your take on this debate?				
2. Definitions and Labels	Connected to the general debate on private security or military companies, there is the question of how to describe these actors and the work that they do. One example of this is the military/security debate, where there has been a shift from the military to the security prefix – at least in research. Do you think these labels matter and if so, how?				
3. The Limits of Privatisation	Some would argue that there should be a limit as to what kinds of services that private companies should be allowed to provide, especially when it comes to providing services in zones of armed conflict that involve the use of force and/or the use/carrying of weapons. Do you agree, do you think that there should be a limit as to the services you can provide or the equipment you can use and if so, where should the line be drawn?				
4. Regulation and Oversight	In the debate on private security companies, a central question is about state control and oversight when it comes to the use of force and the provision of armed protection. Why do you think there is so much focus on these issues, and what are the challenges that you see in terms of regulation and oversight?				
5. Cooperation	Providing services to clients in unstable environments such as in Iraq, there are of course a number of challenges and dangers that security companies face on a daily basis. There is also need for effective cooperation and collaboration among private companies and between private companies and the military. How does this work (or not)?				
6. Challenges at home	I also wonder about the challenges that companies such as yours face "at home", e.g. on the local/state level or national/federal level. By challenges I mean for example opposition and critique from organisations, politicians, the media etc. How do they envisage the "problem(s)" with private security?				
7. Challenges abroad	On the international level, do you think that there is a need for some form of international regulation of the market? And do you think that such an international regime is realistic, e.g. in the way the IPOA argue?				

The themes reflect several facets of both the scholarly and public debate on PSCs, and they relate both to the functioning and role of the security industry in the particular case of Iraq and to issues linked to state control and oversight. The first

two themes (the debate and definitions and labels) are connected to questions about the ways in which the industry is viewed in the general public debate and how PSCs position themselves vis-à-vis this debate. The third theme (the limits of privatisation) is about the practical and ethical limits of security privatisation and provoked reflection on these matters in relation to the circumstances on the ground in Iraq. The fourth theme is linked to existing regulation and oversight and the ways in which PSCs perceive of these issues and the ways in which they influence the companies' activities. The fifth theme deals with the operational environment for PSCs on the ground and the need for these private actors to relate to and cooperate with other private and state actors on the ground. The questions that are connected to this theme are designed to uncover the structure and logic of these different relationships. The sixth and seventh themes revolve around challenges faced by PSCs on different levels. The idea has been to get interviewees to talk about specific incidents or events and their experiences with actors or agencies on different levels and thus expand on topics related to the debate on PSCs and the efforts (or lack thereof) by states and international organisations to control their activities.

The strategy has been to construct main questions that are closely related to the ways in which security privatisation develops on the ground, the ways in which this security privatisation is perceived and understood, and how it relates to different aspects of state control and cooperation between state and non-state actors. In phrasing the actual questions, the idea - again building on Rubin and Rubin – was to translate the abstract concepts and questions of the project into main questions that the interviewees can understand and answer based on their experiences and that encourage them to elaborate on themes closely related to the research problem (Rubin and Rubin 2005: 152f, 155f). Typically, the interviews started with a brief presentation of myself and my research project, some information and questions concerning participation, followed by a few warm-up questions on the activities of the specific company, organisation or individual. After that, the interviews moved on to the main questions as outlined above. In each interview, a number of follow-up questions and probes were used to encourage interviewees to elaborate on specific themes or concepts, to fill in missing gaps, or to give additional details on certain events.

Having conducted around a dozen interviews, my general feeling was that the interviewees were generally open to nearly all sorts of questions (except, for instance, the contents of business contracts) and that they provided honest and detailed answers. In hindsight, one drawback (except for the relatively small number of interviews) was the fact that time and resources only allowed for one meeting with each interviewee. This meant that some questions that arose as the project progressed could only be explored to a certain degree and not revisited to the extent that one might have wished. To be sure, some follow-up questions and requests for clarifications have been handled via email, but this is not the same as

meeting and discussing in person. On the other hand, and as will become evident in the course of the chapters on Iraq, the interviews that were conducted greatly improved my understanding of PSCs and provided useful data for structuring answers to the two empirical questions. All in all, the interviews provided a wealth of basic information on security privatisation in Iraq as seen through the eyes people working on different levels of the security industry.

### 2.4. Analysis

Most of the interviews included in this project were conducted "on the record" and were recorded. This meant that given the choice to be anonymous or to appear with their names, many PSC and industry representatives choose the latter option and also granted my request to make recordings. Despite arguments about interviewees sometimes being hesitant to open up when they are being recorded (Rubin and Rubin 2005: 110f), few interviewees in this project took much notice of the recording device. In fact, several interviewees were positive about making a recording and the creation of a verbatim transcript (to which they were given access), most likely because it ensured that quotes and references used in the research project would be accurate. All in all, the interviews generated over 100 pages (roughly 60,000 words) of transcripts and notes to be scanned for useful data and to be used continually to develop and specify questions as the project progressed.

As discussed above and as shown above in Table 2.1., a number of themes connected to the research questions were identified and elaborated on in working on the design of the interviews. Analysing the transcripts, the strategy was to identify and develop central themes, concepts and descriptions of events and processes in a way that could further the understanding of the role of PSCs in Iraq and the connections between security privatisation and issues of state control of force. Drawing on Rubin and Rubin (2005: 201-224), this meant that all the transcripts have first been rearranged so that answers to main and followup questions from all the interviewees were organised thematically in a single document. In addition to providing a more coherent structure to the text, this also allowed for comparisons across interviews. Next, the new document was scanned for specifications and explanations of the broader themes (e.g. "the limits of privatisation" or "regulation"), the meaning of central concepts or jargon (e.g. "rules for the use of force" or "going Blackwater"), and for descriptions of events or processes (e.g. changes in contracting or oversight procedures). This process of identifying relevant sub-themes and concepts was also facilitated by the review of secondary literature which gave some indications as to what to look for. For instance, knowing from the literature about the importance (and sensitivity) of terms used to describe the companies and their activities, it made sense to look for references to concepts such as "mercenaries" or distinctions

between "offensive" and "defensive" actions and services. The sub-themes and concepts were all marked in the compiled interview document.

The next step in the analysis of data was to begin to summarize and compare themes and to put together accounts of events and processes so that these could be incorporated in the text and related to other sources of data, to findings in previous research, and to different aspects of privatisation and state control. Weighing together and combining several descriptions and understandings of the realities of privatised security in Iraq and the ways in which PSCs relate to other state and non-state actors also made it possible to create descriptions and to explore some of the factors that shape the impact of privatisation on state control (Rubin and Rubin 2005: 224ff, 230-236). In the empirical chapters of this thesis that deal with Iraq (i.e. Chapters 7 and 8), excerpts or quotes from the interviews have been incorporated into the text to describe processes and events, exemplify specific problems related to security privatisation and state control in the case of Iraq, to develop and explain certain concepts and to point to discrepancies. While the interviews are of central importance and have provided important information, it is also clear that interviewees are biased in that a majority of them are PSC employees or representatives in one way or the other. To avoid a distorted analysis, the other sources discussed above were used to complement and sometimes to contradict the data collected from the interviews.

These sources, i.e. official documents and secondary published sources, were read with the themes outlined in Table 2.1. in mind. Thus, a large portion of the official documents and reports used in this project to generate the image of security privatisation in Iraq and to develop themes and concepts were analysed in a way similar to that of the interview transcripts. Analysing the data to explore linkages between security privatisation and state control of force, the themes developed above provided the basic structure needed to bring together the data from different sources. For instance, grouping together data on different themes provided several different points of entry into the three-dimensional concept of state control. Here, the theme of regulation and oversight was found to be closely connected to the social control of force, i.e. the ways in which the use of force corresponds to certain values and norms. Also, the themes of the limits of privatisation and cooperation provided insights into the potential impact of privatisation on capabilities and functionality as well as ideas about what companies should and should not be hired to do. Finally, the themes dealing with challenges on different levels provide insight into issues of political rule and decision-making in relation to PSC activities. What emerges is not a comprehensive measurement of the impact of security privatisation on state control. Rather, what comes out of the analysis is a more comprehensive account of security privatisation in Iraq and a number of ideas about the factors that shape the relationship between privatisation and state control.

# 3. Theorising the Privatisation of Security

The privatisation of security as well as the concept of state control of force can of course be approached in many different ways. The task of the following two chapters is to outline and specify the theoretical perspectives and conceptual tools utilised in this project, as well as to discuss some of the problems associated with making these choices. The current chapter deals primarily with issues related to the state and security privatisation, while the next chapter will outline the theoretical approach to state control of force from the perspective of civil-military relations theory. This chapter is divided into two subsections, each of which will aim to clarify theoretical and conceptual issues linked to the research questions. The first section will introduce the project's theoretical approach to the state and state sovereignty with the purpose of paving the way for the part of the study that deals with the state and violence in history and in relation to the recent development of privatised security. The second section will explain in greater detail how this study views the privatisation of security. This will be done through a discussion of how the private security industry and its actors have been conceptualised in the literature and how they are understood in the context of the present investigation. Focus will then be shifted to the questions of how the concept of privatisation can be applied in analysis and what the limitations of the concept are. In the last part of this section, the question of what is meant by security privatisation will be revisited and developed.

### 3.1. Problematising the Sovereign State and Violence

A central point in this thesis is that in order to make sense of security privatisation in relation to state control of force, it must be seen in a broad perspective. Thus, drawing on historical analyses of the state is important to this investigation because they help put problematic assumptions about the nature of the state and violence into perspective and because they allow for a discussion of stateviolence relationships in a wider context. Basically, theories that deal with state formation processes tell us something about how and why states came to strive to monopolise violence in the first place and how and why the practices of using non-state violence and protection were largely abandoned by 1900. As will be shown in Chapter 5, work on state formation and change can contribute insights on a more general level and serve the purpose of pointing to the longer historical trajectories. However, more specific theories are needed to investigate empirically the linkages between security privatisation and states' ability to control the instruments and use of force. This thesis relies on civil-military relations thinking to fulfil that need, particularly because this literature deals to a large extent with the ways in which states exercise control (or not) over their largest violence-using or coercion-wielding institution, the military. Following Singer (2003) and Avant (2005), it is believed that basic ideas and concepts from the field of civil-military relations can fruitfully be applied in research on security privatisation.

In essence, a historical perspective will not only reveal interesting connections between modern-day and earlier forms of non-state violence and protection; placing the use of private companies in a wider context will also point out some of the limitations of dominant theories of the state and violence. To reiterate, this thesis takes issue with statist understandings of the modern state in which the monopolistic relationship between the modern state and the instruments and use of violence is treated as fixed and as the mark of sovereign statehood. The argument here is that the relationship between the state and violence and the meaning of state sovereignty have been, and continue to be, variable in nature and subject to renegotiations. In addition, fully-fledged state monopolies of violence never did exist except in the form of more or less distant ideals. Hence, it is not very useful to portray the privatisation of security either as a process that undermines the state's monopoly of violence or as a sign of the erosion or end of state sovereignty. Rather than implying the decay of the modern state, security privatisation or the re-emergence of non-state violence and protection should be understood in terms of state change.

From this point of view, the privatisation of security changes to some extent the relationship between the state and violence or, on a more concrete level, the degree and modes of state control of the instruments and use of force. To develop this thinking and to facilitate the subsequent analysis of the state and violence in a historical perspective and the recent expansion of the market for security services, dominant conceptions of sovereignty and ideas of the state's monopoly of violence need to be problematised further. Consequently, this section will aim to develop the critique of state-centric views of the state's relationship to violence, and the centrality of this relationship for state sovereignty. Importantly, such an approach must allow for changes in state-violence relationships as well as shifts in the meaning of state sovereignty. In light of these arguments, it makes sense to look at processes of state formation through historians of the state such as Charles Tilly (1975 and 1992) and Hendrik Spruyt (1994) who both emphasise the non-linear character of state formation. Correspondingly, it appears reasonable to follow authors such as Janice E. Thomson (1994 and 1995) who treat state sovereignty as a variable international institution and criticise the realist conception of sovereignty as an "absolute, timeless and invariable attribute of the state" (Thomson 1994: 151). First however, we shall return to the Weberian image of the state.

#### 3.1.1. The Monopoly of Violence Revisited

In Chapter 1, the quote from Max Weber's "Politics as a Vocation" lecture in Munich in 1919 was used as a way of illustrating how the idea of the state in modern times has often been linked to the concept of violence. Well aware of the changing nature of the relationship of the state to violence, Weber emphasised that he was speaking of the present, i.e. the beginning of the twentieth century. What is specific to the present, Weber argued, is that "all other organizations or individuals can assert the right to use physical violence only insofar as the *state* permits them to do so" and thus the state "is regarded as the sole source of the 'right' to use violence" (Weber 2004 [1919]: 34, emphasis in original). Hence, according to Weber, the state monopoly of legitimate physical violence within a particular territory does not mean that only agents of the state can be authorised to use violence, but that the state is where such authorisation emanates. In other words, violence is only perceived as legitimate to the extent that the state prescribes or permits it. So, while Weber stipulates a close relationship between the modern state and violence, his description is not necessarily deterministic, nor does it rule out non-state but state-authorised and state-controlled forms of violence as illegitimate per definition. It is true that throughout history states have frequently sought to monopolise violence in different ways and this monopoly developed into an important ideal in the modern period (Giddens 1987: 120f). Indeed, from a Weberian point of view, the state's "web of agencies and institutions finds its ultimate sanction in the claim to the monopoly of coercion" (Held 1996: 164, emphasis added). Yet to suggest that at some point in time states actually maintained full-fledged monopolies of the instruments and use violence is misleading and based on a debatable interpretation of the Weber's ideal model of the state.

To avoid the problems related to having a *monopoly* of violence as part of the definition of the state while at the same time acknowledging the importance of the instruments of violence and coercion, I draw upon Tilly's definition of the modern state as "an organization, controlling the principal means of coercion within a given territory, which is differentiated from other organizations operating in the same territory, autonomous, centralized and formally coordinated" (Tilly 1975b: 638, emphasis added; also Tilly 1992: 5). Two aspects of Tilly's definition are particularly worth noting here. One is the absence of the criteria of legitimacy found in many Weberian definitions; the second is the phrase "the principal means of coercion". That the state maintains or strives towards control of the principal means of coercion or a "near monopoly" (Bull 2002: 55) rather than a full-fledged monopoly of violence is, as will be argued below, much more in line with the historical record and, importantly, allows for past, present and future fluctuations in state-violence relationships. The absence of the criteria of legitimacy is perhaps more problematic.

Discussing the state's relationship to violence, Thomson reminds us that the question of legitimacy is complex because of its normative implications. It invokes questions such as: Legitimate for whom? Legitimate by what standards? etc. In theory, a state can possess a monopoly of violence without being legitimate; a dictatorship can hold a legal monopoly of violence without being considered by its citizens to be *legitimate* (Thomson 1994: 7f). This is especially true if legitimacy is seen as flowing from the predictability and perceived legality of the state's use of violence, its promotion of common goals with a minimum of violence and the ability of citizens to decide on the design of the state and its institutions, for instance through some form of representative political system (Wallensteen 1994: 61ff; Held 1996: 164f). However, this is not the only way in which the state's position in relation to violence is legitimised. According to Thomson, it is important to pay attention to the roles played by exogenous forces such as "the world polity or other state rulers" in legitimising certain practices and claims to authority (Thomson 1994: 16f). Developing this thinking, Thomson concludes that "what we commonly take to be a defining characteristic of the state – control over violence within its territory – is actually an expectation of the world polity or of statesmen, an expectation whose realization may vary across time and states" (ibid: 17, emphasis added). In this context it is worth noting that in the modern period, the "structure of the nation-state, buttressed by the concept of sovereignty, has control by national governments over the use of force at its core" (Mandel 2001: 133). In other words, the monopoly of violence has been perceived as a crucial or even the fundamental symbol of state sovereignty (Held et al. 1999: 145). Yet sovereignty, Thomson argues, "is largely in the eye of the beholders. That is, most states are sovereign because other states recognize them as such" (Thomson 1995: 228; also Ruggie 1998: 188). In the past, however, states and rulers have claimed and accepted each others' sovereignty without the existence of anything like monopolies of violence. Does this mean that only modern states with something close to a monopoly of violence may claim sovereign authority "proper" or have the meanings of sovereign statehood - and thus the rules of the "sovereigns' club" - changed over time? (Watson 1992: 316).

### 3.1.2. State Sovereignty as an International Institution

Opting for the latter alternative, state sovereignty9 is understood here as an

The literature on sovereignty is vast, as is the number of meanings given to the term (e.g. Krasner 1999; Bartelson 1995; Hoffman 1998). In fact, as Oppenheim noted in *International Law* in the beginning of the twentieth century, "there exists perhaps no conception the meaning of which is more controversial than that of sovereignty" and the concept "has never had a meaning which was universally agreed upon" (qtd. in Hannum 1990: 14). This statement, it seems, has lost none of its validity. In this project, the focus is on sovereign statehood or rather a critique of how sovereign

international institution whose substance – i.e. the authority claims of the state – is variable and socially constructed. 10 One important point is to avoid the "givenness" with which the concept is frequently treated and to steer clear of conceptions of sovereignty as made up of a set of permanent and unchanging principles (Bartelson 1995: 24, emphasis in original; also Walker 1993: 163). This is not to say that sovereignty is in constant flux. Rather, the argument is that changes do occur and that when they do, they do not necessarily render the concept obsolete. Hence, we are not witnessing the end or the "setting sun" of sovereignty as such (Falk 2002: 169). Instead, the point is that sovereignty "has not declined; it has simply changed form" (Thomson 1995: 226). Yet the occurrence of changes do point to the problem of maintaining a statist or Westphalian view of sovereignty based on the continuity of territoriality, non-intervention and autonomy, ultimately backed up by a monopoly of internal and external violence (e.g. Waltz 1979: 96; Gilpin 1981: 17f; Buzan 2007: 72). This argument is in line with interpretations of state sovereignty as continually contested and as a concept whose core principles have frequently been transgressed and violated in the political practices of states (Krasner 1999; Paul 1999). Of course, the importance of sovereignty in politics should not be denied - particularly in establishing (notions of) boundaries, for instance between internal/external, domestic/international, and state/non-state (Giddens 1987: 281ff; Thomson 1994: 13). Yet these boundaries, these "patterns of inclusion and exclusion" are not natural and cannot be taken for granted (Walker 1993: 179).

Now, what do these arguments against a static and state-centric interpretation of sovereignty mean for the present investigation? Focusing on the question of state control of violence, one may agree with Thomson and argue that the historical development of states with a high level of control over the instruments and use of force internally and externally are indications of changes in the institution of sovereignty (Thomson 1994: 10ff). Conversely, then, the privatisation of security is understood in a similar fashion as an indication of change in this institution. This of course leads to the questions of what is meant by the term institution and

statehood has been conceptualised within the state-centric or realist paradigm. Instead of treating it as a given and fixed entity based on certain principles, sovereignty is seen as an institution, the substance of which may change over time. This is by no means the only way of dealing with the concept. Walker has pointed out that sovereignty may be understood simultaneously as a principle, an institution and as a practice that influences the "authorization of authority" and the creation of boundaries (Walker 2004: 242ff). Concentrating on the changing rules of the institution of sovereignty means that the focus is still on the state and state claims to authority rather than on "sovereign power" as such or the "grammars of power and resistance" more generally (Edkins and Pin-Fat 2004: 3).

<sup>&</sup>lt;sup>10</sup> Following Thomson (1995: 223) *authority* is seen here as contingent on recognition (by other states) and is linked to the (state's) claim to exclusive right to make rules, while *control* is about the capacity (of the state) of enforcing those claims and rules.

how it is related to the concept of sovereignty. Following North, an institution can be defined as the "rules of the game in a society" – "humanly devised constraints that shape human interaction" (North 1990: 3). These rules may be formalised and codified laws or informal and unwritten norms that influence behaviour to a greater or lesser degree. Institutions, Krasner suggests, can be categorised along two basic dimensions: the level of institutionalisation and the persistence or durability of a particular institution over time. The level of institutionalisation is said to be high when there is a high degree of conformity between behaviour and institutional rules (Krasner 1999: 56ff). To link up to the concept of sovereignty and to avoid exaggerations about either change or continuity, it is useful to make distinctions between constitutive and regulative rules of an institution.

Constitutive or enabling rules, Ruggie explains, specify what counts as a particular activity (e.g. driving a car), while regulative rules regulate antecedently existing activities (e.g. driving on the right side of the road, speed limits etc.) (Ruggie 1998: 22, 91). Transferred to the concept of sovereignty, Sørensen (1999) has argued that while there is stability in the constitutive, foundational rules of sovereignty, the regulative rules of this institution have changed in several ways (also Holsti 2004). The constitutive rule of sovereignty, Sørensen finds, is constitutional independence or the legal equality of sovereign states<sup>12</sup> – a principle that has remained essentially unchanged since the seventeenth century. Hence, irrespective of "substantial differences between sovereign states in economic, political, social, and other respects, sovereignty entails equal membership in the international society of states, with similar rights and obligations" (Sørensen 1999: 592f). In this sense, there is continuity rather than change in the institution of sovereignty. At the same time, however, there have been substantial changes in the regulative rules of sovereignty, that is, "the rules that the sovereignty game is played by" (ibid: 595).

According to Sørensen, this means that there have been changes in the rules that regulate interaction between the existing entities that are sovereign states, for instance the ways in which states "go about dealing with each other in war and peace" (ibid.). In the light of this argument, state control of force can be conceived of as a regulative rule of state sovereignty. For some time, this rule or

<sup>&</sup>lt;sup>11</sup> Ruggie outlines three levels or varieties of institutionalisation ranging from shared or dominant ways of looking at reality (epistemic communities) via more tangible sets of mutual expectations, shared rules and regulations (international regimes), to the most concrete form of institutionalisation found in international organisations (Ruggie 1998: 55ff).

<sup>&</sup>lt;sup>12</sup> The basic meaning of the principle of legal equality of states was concisely captured by Emerich de Vattel in *The Law of Nations* (1758) when he wrote that "a dwarf is as much a man as a giant; a small republic is no less a sovereign state than the most powerful kingdom" (qtd. in Cassese 2005: 52). Basically, the sovereign equality of states in international law protects states' jurisdiction over their territories and treat them all – at least in a theoretical, legal sense – as equal (ibid.).

norm has stipulated that ideally, states should maintain a monopoly of violence and that this monopoly is central to the ways in which states conduct certain activities such as war. This rule or norm is not unchanging, however. For long periods of time, the practice of using non-state forms of violence and protection was widely accepted as legitimate among state rulers, as was the waging of private wars. As states developed, however, these practices were increasingly delegitimised and states were able to disarm civilian population and enhance their own coercive capabilities. In the process, state control of force became an important marker of sovereign statehood. Yet in the post-Cold War period, there are indications of recurring changes to this rule. In Thomson's words:

While states continue to monopolize the major, organized coercive forces, there has also been a substantial growth in private coercive activities. Besides the proliferation of private security forces, nonstate groups engaged in "illicit" activities have created private armies formidable in size, organizational sophistication, and weaponry. Nonetheless, private armies have always existed so it is not clear that contemporary forms represent a new or unique challenge to state sovereignty. (Thomson 1995: 229f)

This means that theoretically, the privatisation of security is seen not as a new and unique challenge to state sovereignty, but rather the recurrence or "relegitimisation" of the practice of using non-state forms of violence and protection (albeit in different shapes and forms), for instance in the conduct of military and security operations. In turn, this is understood as a change in the institution of sovereignty or, to be more precise, in the regulative rules of the institution. This is in line with Thomson's observation that "variations in state control over violence emanating from its territory reflect changes in state rulers' appraisal of what the state is expected to control and how much control it is expected to exert" (Thomson 1994: 17). Thus, security privatisation does not spell the end of state sovereignty but signals an important institutional change. The nature of these past and present changes in state-violence relationships will be developed further in chapters 5 and 6. The current discussion will now turn to the question of how the privatisation of security can be conceptualised.

## 3.2. The Privatisation of Security

What is implied by the statement that security (or war) is being privatised? The question is important, not only for the analytical framework of this thesis, but also because it has frequently been avoided in the past. Many researchers have tended to steer clear of discussions of the meaning of "privatisation" and "the privatisation of security", thus rendering the concepts less useful beyond fairly general descriptions of an ongoing process. This section is an effort to sketch one way in which these concepts can be utilised as tools for analysing empirical cases of security privatisation, and to point to some of the problems of the

basic assumptions and distinctions that lie beneath these concepts. The section will start off by considering the challenging task of defining and delineating the private security industry and its actors. The aim is not to provide new definitions but to point to the difficulties involved and to specify how the market and its actors are approached in this project. Again, the focus is primarily on private companies, and what follows is thus not an attempt at delineating the whole range of different non-state forms of violence and protection.

#### 3.2.1. The Private Security Industry: Definitions and Delineations

Since the late 1990s, researchers have been grappling with the task of defining and delineating the private security industry. Surveying the literature, it soon becomes evident that the industry and its actors continue to resist any neat pigeonholing of companies and/or services. While there have been numerous attempts to introduce suitable terminologies and systems of classification, students of security privatisation today struggle with the same lack of a common vocabulary or "nomenclature" that faced researchers a decade ago (Nossal 2001: 459 n. 1; also Zarate 1998: 91; Cilliers and Cornwell 1999: 241). As will be discussed below, there are many reasons for these problems, including the difficulties of defining and drawing sharp lines between "military" and "security" spheres or between "offensive" and "defensive" actions, as well as the problems of differentiating between private companies and different legal and non-legal definitions of the concept of mercenaries. Without denying the importance of developing definitions and (preferably shared) terminologies, it is well beyond the aim and scope of this thesis to bring research on security privatisation out of the "definitional morass" by introducing new definitions or taxonomies (Mandel 2002: 127; Isenberg 2004: 15). To explain the use of terms such as private security companies and to further specify the focus of the project, this section will discuss and draw on existing definitions and classifications. In much of the academic literature and in the public debate on the defining characteristics of the actors and activities of the private security industry, the ancient and controversial concept of mercenaries plays a key role. Because the concept of mercenaries is important both conceptually and historically, it provides a good point of departure.

### The Mercenary Issue

That the increasing employment of non-state actors to provide security- and military-related services in and around zones of armed conflict continues to evoke the concept of mercenaries is not surprising. Nor is it difficult to understand that because of the negative connotations of the term, most people in the private security industry object rather strongly to the mercenary label. Yet to several observers, the term mercenary appeared as a fitting description of the participation

of private companies such as Sandline International (UK) and Executive Outcomes (South Africa) in the wars in Angola and Sierra Leone in the 1990s. These companies, it was argued, were best described as "corporate mercenaries" or "the new mercenary corporations" (Musah and Fayemi 2000: 6; Arnold 1999: 123; also Francis 1999; Isenberg 1997; Sellars 1997). Intuitively, such descriptions appear straightforward and to the point. Upon closer inspection, however, the many ambiguities surrounding the term mercenary renders it problematic and misleading as a basis for defining today's private military and security companies. A short review of the problems surrounding legal and non-legal definitions of the term will suffice to make this point clearer.

First, it should be pointed out that before the rise of national states and the creation of national standing armies, using mercenaries (understood here in Nossal's (1998: 20) language as "soldiers who sell their military services outside their own political community") to wage war was a largely accepted practice (Mockler 1969; Thomson 1994; Howard 2001; Percy 2007a). However, after the Second World War, and particularly as a result of the much-criticised involvement of mercenaries in the wars of decolonisation and in numerous coups d'état from the 1960s and onwards, the word became derogatory and frequently associated with outside or neo-colonial interference and intervention (Mockler 1987: 37f; Arnold 1999: 148f). In this period, efforts were made to outlaw and restrict the use of mercenaries internationally. Today, the word is "so imbued with negative connotations that there is no way to return it to the essentially neutral use it enjoyed in the years before nationalism and the national idea turned selling military expertise to foreigners into an act of opprobrium" (Nossal 1998: 33).

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<sup>&</sup>lt;sup>13</sup> Importantly, the perceptions of mercenaries that developed around this time were not purely negative. As Taulbee and others have noted, the return of the mercenary soldier from the 1960s and onwards "promoted reactions that ran the gamut from pure romanticism to total revulsion" (Taulbee 1998: 146; also Nossal 1998: 17). While many condemned the involvement of mercenaries in the conflicts in Congo, Angola or Nigeria (Biafra), images of the heroic and honourable soldiers of fortune were also spread in the 1970s and 80s through popular culture in the form of books, films and magazines (Taulbee 1998: 161 n. 9). Well-known examples include Frederick Forsyth's 1974 novel *The Dogs of War* and the 1978 film *The Wild Geese* by Andrew V. McLaglen, starring Richard Burton and Roger Moore. Interestingly, it has been suggested that Forsyth's book is actually a work of "faction" and that its plot and characters are based on an attempted *coup d'etat* in Equatorial Guinea in 1973 in which the author himself was allegedly involved (Mockler 2006: Ch. XIV).

<sup>&</sup>lt;sup>14</sup> Examples of such initiatives are: Article 47 of the 1977 additional Protocol I to the 1949 Geneva Conventions which entered into force in 1979, the OAU (Organisation of African Unity) Convention for the Elimination of Mercenaries in Africa of 1977 which entered into force in 1985 and the International Convention against the Recruitment, Use, Financing and Training of Mercenaries of 1989 which entered into force in 2001 (Article 47 of the Additional Protocol I of the Geneva Conventions; OAU Convention CM/817; UN doc. A/RES/44/34). It should be noted that antimercenary sentiments did not appear from nowhere in the 1960s; the history of the norm against mercenary use spans several centuries (Percy 2007a).

At this point, two observations should be made. Firstly, the fact that the perception and meaning of the term mercenaries has shifted over time is interesting because, as Avant observes, it says something about the changes in what is considered legitimate uses of force (Avant 2005: 23). Secondly, judging from the pejorative view of mercenaries that dominates contemporary discourse, it is understandable that other forms of non-state violence and protection – especially when associated with the mercenary concept – appear sensitive and loaded. According to Mandel, there is a "deep-seated moral revulsion about the prospect of putting public safety in the hands of those working simply for profit" that underlies the "widespread antagonism toward the privatization of security" (Mandel 2002: 130; also Percy 2007b: 11f). Given this situation, it is no surprise that today's private security companies (and their clients) work hard to distance themselves from the negative connotations of the mercenary label. Commenting on the use of the term mercenary to describe the work of PSCs, Simon Falkner, formerly Managing Director of a British PSC with business in Iraq, said:

of course it's very emotive for us because most of us do not want to be called mercenaries. We think it smacks of something. It smacks of overthrowing states and so on, you know ... it has nothing to do with what we get involved in (Interview, S. Falkner, 2007).

Yet the word mercenary is not merely a highly negative term that companies would rather avoid; it is also a concept that displays some particular and rather serious ambiguities.

As pointed out by several authors, conventional definitions of mercenaries generally focus on two basic elements: the first is the "foreignness" of the mercenary vis-à-vis the conflict in which s/he fights; the second is the primacy of financial gain as motivation for taking part in the conflict (Mockler 1969: 17ff; Thomson 1994: 26; Nossal 1998: 18; Percy 2007a: 52). These elements are common in both dictionary and legal definitions. For example the New Penguin English Dictionary (2000: 869) defines the noun mercenary as "a soldier who is hired to fight in a foreign country" and its adjective form is defined as "acting primarily for financial reward". Conversely, Article 47 of the Additional Protocol I to the Geneva Conventions defines a mercenary as someone who is "neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict", and as someone who is "motivated to take part in the hostilities essentially by the desire for private gain" (Article 47 of the Additional Protocol I of the Geneva Conventions). As will be shown, both of these elements make the definition problematic both in relation to the individuals that are suspected of being mercenaries and as a basis for constructing (legal) definitions of private companies.

Focusing on Article 47, paragraph two of the article defines a mercenary as someone who:

- (a) Is specially recruited locally or abroad in order to fight in an armed conflict;
- (b) Does, in fact, take a direct part in the hostilities;
- (c) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
- (d) Is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;
- (e) Is not a member of the armed forces of a Party to the conflict; and
- (f) Has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces. (Article 47 of the Additional Protocol I of the Geneva Conventions)

Importantly, the definition is cumulative, which means that all of the conditions of the Article must be met. According to an oft-quoted comment, the definition of a mercenary under Article 47 is so full of loopholes that "a mercenary who cannot exclude himself from this definition deserves to be shot – and his lawyer with him" (Best 1983: 375 n. 83). One problem is the difficulties of introducing a psychological element – financial motive – as part of the definition. This was done partly out of a wish to separate mercenaries from, for instance, volunteers (who are presumably motivated by their political beliefs). Not only is it difficult to establish or prove an individual's motive, motivation is also unsuitable as a instrument to differentiate between mercenaries (who may have mixed motivations) and other individuals or soldiers who may well be motivated (solely or partly) by the desire to make money. Another problem is found in subparagraph (e) which states that a member in the armed forces of a party cannot be considered a mercenary. In practice, this means that by enrolling hired soldiers into the ranks of the armed forces, the risk of these persons being considered mercenaries – and thus loose their status as combatants and their right to be prisoners of war – is avoided (for discussions of Article 47 and related problems, see e.g. Cassese 1980: 23ff; Best 1983: 328f, 374f n. 83; International Committee of the Red Cross 1987; Shearer 1998: 18; Zarate 1998: 118ff; Detter 2000: 147f; Taulbee 2000: 437ff; Schreier and Caparini 2005: 14; Walker and Whyte 2005: 678ff; Kinsey 2005b: 277ff; Percy 2007a: 53, 171ff).<sup>15</sup>

<sup>&</sup>lt;sup>15</sup> To give one example related to a private company, the 1997 contract between the British firm Sandline International and the government of Papua New Guinea (PNG) clearly states that "all officers and employees of Sandline assigned to this contract shall be enrolled as Special Constables" in the PNG defence forces (the contract is cited in Singer 2003: 249; see also Shearer 1998: 18; Kinsey 2005b: 283).

So, are private companies providing security- and military-related services in and around zones of armed conflict mercenaries? From an international legal perspective, the answer would in most cases be: no. Given the problems outlined above and the fact that the cumulative conditions of Article 47 makes it difficult to apply to any person, it has been described as "generally unworkable as a legal instrument" (O'Brien 2007: 34). In view of these problems, its potential application to private companies and their employees appears limited from the outset. There are several factors that complicate the application of Article 47 to private companies. Firstly, as Gillard observes, Article 47 focuses on natural and not legal persons, which means that it is the employees of the companies and not the companies themselves that must fulfil the conditions of the definition (Gillard 2006: 568). Secondly, the requirements in subparagraphs (a) and (b) are problematic since companies are rarely recruited to fight in armed conflicts (even if this is what they sometimes end up doing), nor can the majority of their activities be seen as amounting to direct participation in hostilities (even if there are situations when they do). Thirdly, condition (d) stipulates that the person in question is "is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict". Hypothetically, this could exclude British, American and Iraqi employees of a company while their Chilean or Swedish coworkers could be considered as falling within the scope of Article 47 (ibid: 568ff; Doswald-Beck 2007: 122f). In sum, one can agree with the former UN Special Rapporteur on the subject of mercenaries, Enrique Bernales Ballesteros, who concluded that private military advisory, training and security companies "cannot be strictly considered as coming within the legal scope of mercenary status" (UN doc. E/CN.4/1997/24: para. 106).

If private military and security companies are not mercenaries in an international legal sense, then what are they? Before going into this question, it should be noted that while most companies and employees would fall outside the legal definition of Article 47, this does not render the mercenary concept irrelevant for investigation. On the contrary, and as will be discussed in greater detail in the following chapter, the concept of mercenaries is important when tracing the roots of today's private companies and when discussing historical shifts in the relationship between the state and the instruments and use of violence. Also, though company employees and representatives understandably reject the term, it is still the case that "despite the best efforts of first PMCs and later PSCs to present themselves as legitimate business concerns free from the mercenary label, they have been tainted by it" (Percy 2007: 206). While mercenaries continue to exist and while the some of the activities of private companies are akin to those of mercenaries, the concept is less useful as an analytical term and as a basis for defining private security and military companies. Rather, mercenaries should be treated as comprising a separate category of "private actors" that is conceptually linked to – but not the same as – private security and military companies (e.g. O'Brien 2000a and 2007).

#### Military or Security Companies? More Definitional Considerations

Besides mercenaries, there are several terms used to describe private companies that offer different types of security- and military-related services, including private security companies (PSCs), private military companies or firms (PMCs or PMFs), private security and military companies (PMSCs) or simply security contractors. While definitions vary between authors, the labels themselves indicate one key question, namely whether companies are best described as military or security companies, or both. As indicated above, this thesis will follow some authors in this field and adopt the term PSCs generically (e.g. Avant 2005: 1 n. 3; Holmqvist 2005: 5f; Percy 2006; Kinsey 2007: 610). One argument for doing so is that while many companies do offer services that are closely linked to military operations and activities (e.g. armed convoy escorts in war zones, military training etc.), a large number also provide services that are not as clearly associated with functions conventionally construed as "military" (e.g. risk assessment, guarding property or personnel). This is basically in line with Nossal's observation that "some of these firms do not offer purely military services, but all of them are in the business of providing security" (Nossal 2001: 459 n. 1, emphasis in original). The point here is that on a general level, the term PSCs is a more inclusive concept that covers the whole spectrum of commercial, non-state providers of security- and military-related services, regardless of the context (e.g. war or peace) in which these services are provided.

Certainly, lumping together companies providing unarmed services in stable societies (such as the company that provides the guards doing rounds at the university at night) with those conducting armed convoy escorts in war zones does result in a very broad and general concept. Very likely, some of those defining themselves as "traditional security companies" would object to being associated with companies providing armed services in conflict or high risk areas. At the same time, it is important to emphasise that in a wider perspective, the privatisation of security includes – but also extends beyond – the context of armed conflict (Abrahamsen and Williams 2007). This does not mean that the military nature of services, staff and activities of some companies, or the role of these companies in armed conflict, should be ignored or downplayed. It means, however, that security is considered more suitable as a general point of departure. In order to explain what is meant by this, we shall look at some examples of how military companies are conceptualised in the literature and how they have been delineated from security companies.

The term "military companies" was introduced into academia by David Shearer in the late 1990s and was influenced by the involvement of Executive Outcomes (EO) and Sandline International in armed conflicts, primarily in Africa. Basically, the term refers to companies that "offer military skills that were once the preserve of governments" (Shearer 1998: 23). These companies, Shearer argues,

are distinct from organisations operating in other areas of the security industry in that they are designed to have a *strategic* impact on the security and political environments of weak states facing a significant military threat. The activities of military companies often include military assessment and training as well as, occasionally, supplying equipment to a state's security forces; direct involvement in a conflict is less common. (Shearer 1998: 23)

Along these lines, Tim Spicer, former Chief Executive of Sandline, adds that private military companies are not passive, they "offer practical military help" (Spicer 1999: 41). According to Shearer, security companies differ from military companies in that their role is generally limited to protecting property and personnel and because they do not provide "direct military assistance that has a strategic impact" (Shearer 1998: 24, emphasis in original). To further specify the military/security division, some commentators have described military companies as "active" and "offensive" while security companies are seen as "passive" and "defensive" (Brooks 2000: 129f). At first glance, this way of separating military and security companies appears useful because it points to the fact that some companies offer and provide services that are usually construed as belonging to the realm of national militaries, such as the active participation in combat operations, while others are more closely related to the conventional image of security companies.

However, as Holmqvist (2005) points out, while distinctions such as offensive/defensive or active/passive are common in the literature, they are not very helpful. For instance, deciding what constitute offensive and defensive actions will depend on the circumstances (and the observer) and cannot be generally or objectively determined. Also, as Schreier and Caparini point out, because companies perform multiple functions and because many companies offer a wide range of both security- and military-related services, distinctions between military and security companies are "blurred and artificial" (Schreier and Caparini 2005: 30; also O'Brien 2007: 39). In addition, the "military versus security dichotomy" is unfortunate because it presumes that clear and stable distinctions between "military" and "security" spheres and activities can be maintained (Holmqvist 2005: 5). Furthermore, distinctions between military and security companies are sometimes based on whether the companies provide armed or unarmed services. Such distinctions are increasingly distorted, especially in cases like Iraq where

<sup>&</sup>lt;sup>16</sup> The meaning of the term "the military" is not stable but variable across time and space. For instance, Moskos, Williams and Segal (2000: 2) have argued that the changes that characterise the transition from a late modern to a postmodern military includes an "increasing interpenetrability of civilian and military spheres, both structurally and culturally", as well as state militaries increasingly becoming involved in activities (e.g. humanitarian missions) that fall outside traditional conceptions of the role and function of the military (also Cheeseman 2005). This change is also indicative of the difficulties of maintaining clear distinctions between military and civilian spheres.

the staff of companies that would ostensibly fall into the "security" category frequently carry arms (O'Brien 2007: 35). Also, this way of distinguishing between companies, Peter Singer observes, is "an antiquated division in an era when a person pushing a computer button can be just as lethal as another person pulling a trigger" (Singer 2003: 90). Finally, and because of the wide range of services provided by many companies, it raises the question of whether *companies* (i.e. what they are) should be the unit in focus or, as will be argued below, if emphasis should instead be placed on their *activities* (i.e. what they do).

Another factor that has been used to separate military from security companies is the context in which services are provided. For instance, Chesterman and Lehnardt define PMCs broadly as "firms providing services outside their home states with the potential for use of lethal force, as well as training of and advice to militaries that substantially affects their war-fighting capabilities" (Chesterman and Lehnardt 2007: 3). Explaining their use of the term, the authors argue that semantically, "the term 'military' better captures the nature of these services as it points to the qualitative difference between firms operating in conflict zones in a military environment and 'security firms' that primarily guard premises in stable environment" (ibid.).<sup>17</sup> In this perspective, the primary fault line between military and security companies is the context in which the companies operate. While there is indeed a qualitative difference between operating in a conflict zone and in a stable environment, this does not resolve the case of companies such as Blackwater providing armed guards and escorts for US State Department personnel in Iraq and weapons training for US military and law enforcement personnel in the US. This problem essentially leads back to the issue of finding a suitable basis for defining companies and/or their activities or services.

To solve some of the problems indicated above, Peter Singer has launched the term private military firms or PMFs to cover the wide spectrum of "business organizations that trade in professional services intricately linked to warfare" and "corporate bodies that specialize in the provision of military skills, including combat operations, strategic planning, risk assessment, operational support,

<sup>&</sup>lt;sup>17</sup> The wording of the definition is unfortunate in at least two ways. Firstly, using the phrase "outside their home state" seems to presume that companies are essentially state-based, which they sometimes, but not always, are. Indeed, some commentators have argued that a defining characteristic of many companies is that are inter- or transnational and that there are many difficulties involved in assigning nationality to the companies whose organisations, including subsidiaries and staff, are often internationalised. To underline the non-national nature of many of these companies, Nossal has suggested the term transnational security corporations, or TSCs (Nossal 1998 and 2001; also Singer 2003: 90; Avant 2005: 9ff). Also, even in cases when companies can be considered to have a "home state", the definition would seemingly disqualify the use of, say, Iraqi companies that provide armed guards to protect Iraqi businesses. Finally, the requirement that companies that are in the business of providing training and/or advice should "substantially" affect their client's war-fighting capabilities is potentially problematic. Who and what decides when these capabilities are *substantially* increased?

training, and technical skills" (Singer 2003: 8). Drawing on the terminology commonly used to distinguish between different military units, Singer suggests a "tip-of-the-spear" taxonomy to classify private companies according to their range of services and the level of force they can offer and where this would locate them in the battle space. Closest to the frontline (or the tip) are the "military provider firms" (e.g. EO and Sandline) that offer military implementation, for instance by engaging in actual combat, and whose focus is on the "tactical" or operational level. Slightly further from the frontline are the "military consulting firms" that "provide advisory and training services" (e.g. MPRI, Vinnell, DynCorp). These firms do not engage in combat and do not operate "on the battlefield itself". Furthest away from the frontline are the "military support firms" (e.g. KBR) that provide "supplementary military services" including "nonlethal aid and assistance, including logistics, intelligence, technical support, supply and transportation" (ibid: 91-100).

Singer's delineation of the private security or military industry is appealing because it allows for distinctions between companies according to criteria that are already in use to describe the organisation, role and function of different military units. Yet, the categories are not mutually exclusive and the tip-of-the-spear analogy is difficult to apply in many of the conflicts where private companies operate. In the case of Iraq, and as clearly demonstrated by incidents such as the one in Najaf, it is frequently difficult to identify a clear front line or to delineate a "battlefield". Also, as Singer himself points out, companies such as ArmorGroup do not fall neatly into one category (e.g. military advisory *or* support) but offer services across sectors (Singer 2003: 92; also Kinsey 2006: 9). 18 Yet maintaining a focus on services or activities rather than companies is important because most companies "have the flexibility to move between different categories of services" and may – in theory – shift from providing chiefly logistics to providing military training, or they may have sufficient size and/or operational range to provide both (Kinsey 2006: 9f, 31f; also Avant 2005: 17; O'Brien 2007: 39).

Sarah Percy adopts a slightly different approach. She too focuses on activities but uses the provision of combat services to differentiate between companies. Doing so, she finds that besides mercenaries, there are two "variants of private force" in the international system: combat PMCs and security or non-combat PMCs; the first being "tightly organized companies with a clear corporate structure that provide military services, including combat" while the latter are "similarly organized companies that exchange military services stopping short of combat

<sup>&</sup>lt;sup>18</sup> Yet another critique that has been levelled against Singer's terminology is the fact that he uses the word "military" to classify all three sub-types of companies. Donald asks whether Singer's inclusion of consultant and support firms under the private military banner is accurate "when they do not offer the core, defining military service – combat" (Donald 2006: 6).

for payment" (Percy 2007b: 12f). Making this distinction effectively reserves the term "combat PMCs" for companies such as EO and Sandline that openly expressed a willingness to perform combat tasks (e.g. Spicer 1999: 42ff). Based on whether companies are willing to engage in combat, Percy concludes that the majority of companies that operate today belong to the security or "non-combat PMC" category (Percy 2007b: 13).<sup>19</sup> While more specific, less context-bound and in line with the emphasis on services, the introduction of a negative term (that describes what the company is *not*) appears awkward. In her other work, Percy has instead used the term PSCs to label companies that do not (or claim that they do not) engage in combat (Percy 2007a: 60f).<sup>20</sup>

Finally, in an attempt to produce a broad definition while at the same time steering clear of the problems of making distinctions between military and security or between offensive and defensive, the UN Working Group on the use of mercenaries as a means of violating human rights and impending the exercise of the right of people to self-determination has embraced the term private military and security companies, or PMSCs. In their report to the Human Rights Council in January 2008, the Working Group defines PMSCs as follows:

private companies which perform all types of security assistance, training, provision and consulting services, i.e. ranging from unarmed logistical support, armed security guards, and those involved in defensive or offensive military and/or security-related activities, particularly in armed conflict areas and/or post-conflict situations (UN doc. A/HRC/7/7: 4).

<sup>&</sup>lt;sup>19</sup> According to Percy, there are currently "no companies of this [combat PMCs] type operating openly in the international system" and that their disappearance suggests that they were only marginally legitimate (Percy 2007b: 13f; also Percy 2007a: 225ff). While both Executive Outcomes and Sandline are defunct, newer companies – such as Blackwater and Greystone – have clearly expressed a willingness to undertake tasks that would appear to move them slightly closer to the combat category. For instance, Blackwater officials have said that the company would be willing to send a brigade-sized peacekeeping force to the Darfur province in Sudan (Pelton 2006: 284ff; Scahill 2007: 343ff; Donald 2006: 4 n. 8). Along the same lines, Greystone Ltd. – an offshoot of Blackwater – states on its website that its "peacekeeping solution provides a flexible force with the ability to provide a properly trained force in a short period of time. The force provides a light infantry solution that is self-contained and self-sufficient". The website further states that any peacekeeping mission "requires varied uses of force depending on the environment. To meet this fluid need, Greystone has created a package that is strained across the force spectrum" (Greystone Ltd: "Humanitarian Aid / Peacekeeping").

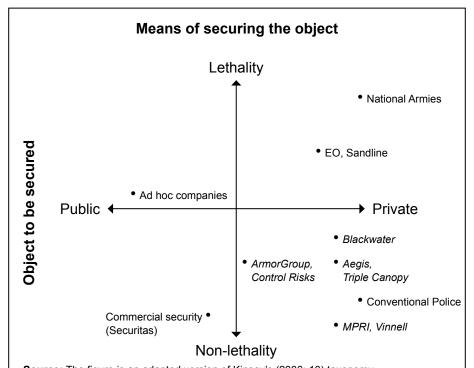
<sup>&</sup>lt;sup>20</sup> In this context, one should also take notice of some aspects of what Taulbee has called the "politics of definition" (Taulbee 2000: 438). Not only is the meaning of the term PMCs uncertain, it is also controversial. Many PSCs, as Percy points out, "insist that not only are they not mercenaries, they are also not PMCs" (Percy 2007a: 206). One reason for these reservations to the PMC concept, according to Andrew Bearpark, the Director General of the BAPSC, is that it implies services at the frontline in conflicts (Pfanner 2006: 451).

The definition is wide and inclusive and may serve as a general point of departure. It covers all aspects of security provision, both in and outside the context of armed conflict. However, it does not provide a more specific principle or baseline from which a more detailed classification of services and/or companies can be constructed. Considering the "multidimensional nature of privatized security", such specifications or subdivisions are important (Mandel 2002: 93). Also, it is unfortunate and somewhat bewildering that the UN Working Group should insist on using an acronym such as PMSCs which by itself lends no apparent clarity but instead seems to increase the confusion about what these terms are supposed to encompass and how they are separated. In short, what is needed is a more structured image of the private security industry that allows researchers to differentiate between different companies based on their services or activities in a given context. While this issue will not be resolved here, the next section will nonetheless offer one way in which classifications can be made by focusing on what PSCs are contracted to protect and their ability to use lethal force in providing their services.

#### Kinsey's Taxonomy of the Private Security Industry

Given the problems outlined above, it is understandable that the situation has been described as a definitional morass. Even so, Christopher Kinsey has constructed a taxonomy that takes into account the shifting nature of the industry and its actors. Basically, Kinsey positions private companies in relation to two variables or axes: 1) the object to be secured, ranging from private property to the defence of the state; and 2) the means of securing the object, ranging from non-lethal means to the use of lethal, military-type force. As reference points, Kinsey uses ideal models of institutions of state security such as the police and the military (Kinsey 2006: 10ff, 22ff). Figure 3.1. is an adapted and simplified version of Kinsey's model that shows how companies can be situated in relation to the two basic variables. The purpose here is not to provide a comprehensive taxonomy that includes all possible non-state actors. Rather, the purpose is to show how companies providing certain services in the case of Iraq can be positioned in relation to other state and non-state actors. Focusing on the services provided in a specific case or under a specific contract results in a more detailed image of private security provision in relation to the key issues of what is being secured and what level of force companies can deploy as part of their operations.

Figure 3.1. Adaptation of Kinsey's Taxonomy of the Security Industry



**Source:** The figure is an adapted version of Kinsey's (2006: 10) taxonomy. **Comment:** The horizontal axis indicates the object to be secured. At the "private" end, this includes private property or a building. The "public" end indicates the defence of the state, as in state territory, state property, representatives of the state or law enforcement. The vertical axis indicates the means used / available to secure the object. At the "non-lethality end" we find, for instance, unarmed security guards in shopping malls. At the other end of the axis, we find the use of lethal force, the maximum representation of which includes the massive use of direct violence used by an army fighting a war (Kinsey 2006: 11). It should be stressed that the positions of companies in the four quadrants are not necessarily stable, nor is it the case that a company should occupy only one place in the figure. Company names in italics represent the location of some companies based on their activities in Iraq.

Starting off with the different reference points in the figure, national armies are considered here as the state institutions whose primary concern is the security of the state. Modern armed forces have the ability to project very high levels of lethal force – much higher than any private company. The only companies that can be said to have focused mainly on state security and whose deployment of or access to lethal force come close to that of conventional armed forces are EO and Sandline, hence their position in this quadrant. Next, conventional police forces are normally tasked with law enforcement within a state's territory. While police officers may carry weapons, these weapons are usually light and the conditions under which these may be used are generally heavily restricted. As a

result, conventional police rank much lower on the lethality axis than military forces and also lower than some PSCs providing services in conflict zones. In the lower left quadrant, one would find what could perhaps be labelled traditional or conventional security companies. These companies – exemplified here by Securitas – are typically involved in cash collection and delivery services, manned guarding, monitoring and response. The costumer segments include a wide range of private businesses, but also public agencies (Securitas website). Significant for many of the services are that they rarely involve the use of lethal or armed force. Finally, *ad hoc* security companies (Kinsey mentions Lifeguard Management, Alpha 5, Saracen International and Stabilco) are distinguished by their preference for private contracts, their often short lifespan, and their willingness to take on contracts which may require the use of a fairly high level of lethal force (Kinsey 2006: 22-30). Keeping in mind that these descriptions are generalised and simplified, focus can now be shifted to the remaining PSCs in the model.

My positioning of the PSCs with contracts in Iraq is tentative and based on rather sketchy information about contracts from the companies' websites, previous research and a few government reports. The focus here is on those companies that are (at least partly) contracted by state agencies to protect state assets (e.g. embassies, military bases) and representatives (e.g. diplomats or civil servants). Many companies work for several state and non-state clients, making classification more difficult and necessarily provisional. Those companies that have been included in the model (names in italics) represent a loose category of PSCs, some of which provide armed services as part of their contracts to protect property or personnel. Within this category, we find companies such as Blackwater, Aegis, Triple Canopy, ArmorGroup, and Control Risks. Admittedly, these companies are dissimilar in many ways, for instance in terms of services offered and performed, client base, staff background, country of origin etc. Positioning them in relation to the two axes reveals some of these differences as well as some similarities. For instance, they are all able to project (or resort to) a fairly similar level of force, placing them above traditional police forces. Blackwater arguably ranks higher on the lethality axis, partly because of its access to (and use of) MH-6 helicopters to provide armed support to staff on the ground. ArmorGroup and Control Risks are placed further to the left on the public-private axis due to their contracts with private businesses. Both companies, however, also work under contracts with the British Foreign Office (FCO). Finally, MPRI and Vinnell, whose main contracts in Iraq involve training of the Iraqi military and police forces end up in the lower right corner of the figure (e.g. Isenberg 2004; Kinsey 2006: 25ff; Elsea and Serafino 2007; Griffin 2007; FCO November 2006; House of Commons, October 18, 2007; WPPS II Contract; also ArmorGroup Annual Report 2007).

To sum up, Kinsey's taxonomy provides a useful baseline for classifying security companies based on the services they provide. In this study, the primary focus is on the lower right quadrant of the figure and it involves companies working at least partly under contracts with public agencies. Within this quadrant, those companies that provide armed services as part of their contracts are of special interest as they are closely related to the question of the use and control of force. It is important to bear in mind that the taxonomy does not entirely resolve the issue of companies performing multiple services under the same contract or the movement of companies along the axes from one contract to another. What it does provide, however, is a snapshot of privatised security that indicates how companies (based on the services they provide under specific contracts) may be situated in relation to two important variables and in relation to other state and non-state actors. For instance, analysing the level of force/violence that PSCs are able/hired to project and comparing this to the abilities of actors such as the armed forces is important because it lowers the risk of making too much (or too little) of the coercive capabilities of private companies. Conversely, knowing whether PSCs work primarily to defend the state or other private companies (or both) is important because it says something about the client base for different services. Yet to analyse security privatisation, knowing whether PSCs are contracted to secure private or public assets and what level of force they are able to project provides only part of the picture. To complement it, the concept of privatisation needs to be discussed further.

#### 3.2.2. Privatisation: Processes and Patterns

Intuitively, the term privatisation is a suitable description of the increasing reliance on private companies to deliver security- and military-related services that have previously been (seen as) the responsibility of the state. In the literature, the concept is used extensively and usually signifies the outsourcing of a wide range of activities supposedly associated more or less exclusively with state actors such as the military or the police to commercial actors on a global market. To identify potential problems, privatisation has been understood as a process whereby private companies take over public functions and private-sector methods are introduced into the public sector (Bislev 2004: 599; Avant 2004). Private actors are hired to perform (supposedly) public security functions; a practice that leads to the introduction of market mechanisms, such as profit-maximising and competition, into the structure and organisation of such activities (e.g. national security, policing). However, many researchers have tended to avoid more detailed discussions on the potential usefulness and limitations of the concept of privatisation as an analytical tool. In relation to post-Cold War armed conflicts, the "privatisation of security" or the "privatisation of war" has been used in a broad sense to designate the increasing presence and impact of a number of essentially non-state actors and entities, including rebel forces, NGOs, international aid organisations, guerrillas, private companies and warlords (Møller 2005; Mehlum et al. 2002). Privatisation in the broad sense is understood as an indication of what Münkler has called a "de-statization of war" where non-state actors play increasingly important roles (Münkler 2005: 16; also Kaldor 1999; Duffield 2001). However, if the concept is to be used as an analytical tool with more precision than a general description, a basic interpretation of privatisation as the "replacement of the state by the market" will not suffice (LeGrand & Robinson 1984: 6).

To be more specific, privatisation can be said to signify an active process by which something (a service or an activity) that has hitherto been, *or been seen as*, a public responsibility is transferred to the private sector (Lundqvist 1988: 4ff, 12; Lundqvist 2001: 255; also Donahue 1989; Feigenbaum and Henig 1994 and 2001). Using the concept in research on PSCs, one can, as Avant does, follow Donahue and look at the delivery (public or private) and the financing (collective or individual) of security- and military-related services to gain more insight into different combinations and/or to allow for comparisons between cases (Avant 2005: 24ff; Donahue 1989: 7). Avant's (or, rather, Donahue's) conceptualisation lends some clarity to the discussion, but it downplays one of the most central activities where the state may transfer responsibility to the private sector: regulation. In this project, the responsibility (public or private) for services or activities is divided into three basic categories or dimensions: regulation, financing and production. To guide our thinking about privatisation on the state level, Lennart J. Lundqvist provides the following taxonomy:

<sup>&</sup>lt;sup>21</sup> As Lundqvist points out, the concept of privatisation is far from straightforward and there is an abundance of definitions with different focus and implications (ibid: 1ff; Lundqvist 2001: 254f). Moreover, the concept is (still) heavily loaded with ideological and political symbolism. Donnison has argued that "[p]rivatisation' is a word invented by politicians and disseminated by political journalists. It is designed not to clarify analysis but as a symbol, intended by advocates and opponents of the process it describes to dramatise a conflict and mobilise support for their own side. Thus it is a word that should be heavily escorted by inverted commas as a reminder that its meaning is at best uncertain and often tendentious" (Donnison 1984: 45, quoted in Lundqvist 1988: 2).

Figure 3.2. Theoretical divisions between public and private responsibility in the regulation, financing and production of services or activities

Function	Location of Responsibility								
Regulation	Public			Private					
Financing	Public		Private		Public		Private		
Production	Public	Private	Private	Public	Public	Private	Public	Private	

Source: From Lundqvist (1988: 15) and Lundqvist (2001: 257).

**Comment:** The left diagonal indicates an activity/service entirely within public responsibility (monopoly), while the right diagonal indicates an activity/service with only private responsibility. The model generates eight hypothetical divisions of responsibilities or "patterns of privatization" (Lundqvist 1988: 15). It should be stressed that the divisions between public and private are not as straightforward and sharp as the typology indicates – hence the dashed lines.

The taxonomy makes it possible to speak of different forms of privatisation, such as the withdrawal of public subsidies for certain services, allowing public services to be produced by private entities, or leaving the regulation of a certain activity to the private sector (Lundqvist 1988: 14ff; Lundqvist 2001: 261f).

The taxonomy is functional in that it covers three important components of privatisation and it allows for the study of a variety of combinations or patterns in different cases. Yet, a critical caveat is called for: looking at privatisation in this way, one must acknowledge the discrepancy between the "clear-cut analytical distinction between public and private" in the model, and the mixes of public and private that usually exist in the empirical world (Lundqvist 1988: 15).<sup>22</sup> Moreover, it should be pointed out that privatisation as well as the tools used to analyse it have principally been designed to apply to ideal images of consolidated welfare states, and do not necessarily translate well to other states or to the regional or international levels. The term privatisation suggests that something (deemed as) public is made more private; it presupposes, as it were, some form of public control. Yet the development of private companies acting on an international market cannot be

The lines or boundaries between public and private, or between state and non-state or domestic and international have been, and presumably continues to be, contested and fluctuating rather than fixed and invariable qualities of sovereign statehood. As Donahue has helpfully observed, "it would be going too far to say that there is no mileage left in the distinction" but "comparisons of public and private forms of organization must be either hedged about with qualifications, or taken as slightly artificial statements of tendency" (Donahue 1989: 9; also Thomson 1994: 13ff; Tilly 1992: 69ff; Avant 2005: 23f; Walker 1993).

explained or understood solely by looking at the level of the state, presuming a state monopoly of violence. This is especially evident in relation to so-called weak states and in the context of violent conflict, where states' control over the instruments of violence and protection is highly uncertain or even non-existent. In these cases, using privatisation to designate a rolling back of the state is essentially a "misnomer" since these states had precious little to privatise in the first place (Holmqvist 2005: 2f). Nonetheless, it is in this context that actors such as PSCs have been able to find an increasing number of business opportunities, and this calls for a broader understanding of privatisation. Thus, it must be accepted that while there have been conscious transfers of responsibility to the private sector, the market has also developed outside the control of any one state and has not emerged only as a result of privatisation in the narrow sense. In some cases, one might argue that "governmental inactivity [e.g. as a result of inadequate resources], not just conscious policy, have the effect of transferring responsibility for hitherto public matters into the private realm" (Lundqvist 1988: 5).

Yet in spite of the ambiguous quality of the concept, Lundqvist's taxonomy is helpful for structuring our thinking on privatisation, and for identifying and discussing patterns and related problems. In this study, one important task is to find out how PSCs are being used in Iraq. Identifying major privatisation patterns (and changes) based on the three basic categories of production (what are the companies contracted to do?), financing (who is paying?) and regulation (how are the companies regulated and by whom?) will facilitate a structured account of security privatisation in Iraq. This effort is of central importance because it will provide indications of how privatisation develops in the context of the conflict in Iraq, and it will pave the way for the analysis of changes and challenges to state control of force.

### 3.2.3. Complicating the Image of Security Privatisation

Turning back to the central question of what the privatisation of security means in the context of the present investigation, the discussion so far has yielded some important parts of the answer. Above, it was argued that private security companies are conceptually related to mercenaries in that they are non-state actors specialising in protection, including armed protection in conflict zones and sometimes even active engagement in combat operations. From the perspective of international law, however, the linkage between PSCs and mercenaries is highly problematic due to problems of existing definitions of the mercenary category. Leaving the concept of mercenaries for now, it might be argued that on a general level, privatised security involves private companies being engaged to take on a wide range of security- and military-related tasks, many of which have conventionally been seen as the responsibility of the state and as performed by agents of the state such as the police and the military. Importantly, security companies and their

services have been classified and defined in many different ways; what has been suggested through the use of Kinsey's model is merely one way of making at least an initial distinction based on the object to be secured and the level of force that companies can project or make use of to secure a particular object.

Having arrived at a rough delineation of the private security industry means that the focus of the study has been somewhat clarified. To reiterate, within the broad field of privatised security, this study is concerned first and foremost with those companies that perform services in unstable environments and whose activities involve (but are not limited to) the potential (or threatened) use of armed force. To study these companies and what they do, the concept of privatisation is understood as the involvement of private companies in the production, financing and/or regulation of (security- and military-related) services and activities. Utilising Lundqvist's taxonomy of privatisation means that different patterns of privatisation or, to put it another way, different mixes of public and private, in cases such as Iraq can be identified. In turn, identifying and describing the major privatisation patterns and how these change over time makes it possible to be more precise about what is being privatised (and not) and how this process is linked to issues of state control of force.

Yet it is important to stress that the privatisation of security in this context is not simply a matter of replacing state actors (i.e. the police or the military) with commercial security providers. The privatisation of security also signals an increasing role for private companies in shaping the dynamics of security structures, policies and governance (e.g. Leander 2005 and 2007; Abrahamsen and Williams 2007). When security and protective services are provided by private companies, they take on the role of "technical experts", applying professional skills to address or to resolve their clients' perceived security needs (Leander 2005: 612). Importantly, however, PSCs also identify and interpret security problems and threats that prospective clients need to resolve. This means that private security companies are not merely tools whose technical expertise can be called upon to resolve specific security-related problems. In describing, promoting and practicing their technical skills, PSCs can also function as "security experts", influencing interpretations of risk and threats in different contexts (ibid; see also discussions in Bigo 2002; Huysmans 2006: 8f; CASE collective 2006: 457ff). In some situations, this may be a function of companies trying to convince clients of the need for their services; in other instances, it is their capacities as security experts that clients seek. When clients are states or state agencies, it has been suggested that security privatisation involves private entities in "shaping the lens through which policy makers view a problem" and that this constitutes a form of agenda setting (Avant 2005: 128).

Expressed in the language of Buzan, Wæver and de Wilde (1998), it is useful to think of PSCs as both "functional actors" that influence the dynamics and decisions

in the field of security, and as potentially playing a role in the "securitization" of issues, i.e. the processes and speech acts through which issues become branded or framed as security issues (Leander 2005; also Huysmans 2006: 22ff; Bigo 2008). While the aim of this project is not to investigate these particular roles of PSCs in any systematic or substantial manner, awareness of this perspective nonetheless allows the study to point in this direction when analysing the privatisation of security in the context of the Iraq case. Acknowledging the potential role of PSCs in politics also connects them to questions about the role of the military; as Leander has pointed out, PSCs, just like public armed forces, are likely to become involved in "shaping understandings of security and politics" (Leander 2007: 49f). Also, like the military, PSCs may be understood as "technicians in the management and organisation of violence" (Finer 2006: 24). Undoubtedly, and as will be argued in the course of the next chapter, PSCs differ in many important respects from national armed forces in terms of organisation, military expertise, social responsibility and impact on politics. Yet when PSCs are engaged as technical experts and/or as security professionals, the privatisation of security becomes linked to traditional concerns of civil-military relations and thus the ways in which states act to control the instruments and use of force.

#### 3.3. Conclusions

The aim of this chapter has been to develop a central part of the analytical framework of the thesis by outlining the ways in which theoretical perspectives and concepts related to state-violence relationships and the privatisation of security are understood and utilised in the study and in relation to the research questions. Before going on to elaborating on the concept of state control of force, a quick summary of the main arguments of this chapter is in order. The first section addressed the idea of a state monopoly of violence and its relationship to state sovereignty. Here, it was argued that deterministic approaches to the monopolistic relationship between the state and violence and claims about state monopolies of violence fit badly with the historical record and misses the variable nature of this basic relationship. Related to this, it was suggested that state sovereignty is best understood as an international institution whose specific meaning and related practices are subjected to change. Hence, changes in the relationship between the state and violence – for instance as a result of privatisation – is not a sign of the erosion of the state monopoly of violence, nor does it spell the end of sovereignty. Rather, such changes in the relationship between the state and violence can fruitfully be seen as changes in the rules that regulate the sovereignty game (Sørensen 1999). Departing from these basic ideas, the task of the chapters dealing with the state and violence in a historical perspective and the recent expansion of the market for private security services (i.e. Chapter 5 and 6 respectively) is to develop this thinking and to provide a more solid background to changes in

state-violence relationships and to relate these changes to the practice of using non-state forms of violence and protection.

In the second section, the meaning of the term "the privatisation of security" was addressed, starting with a discussion on the ways in which the private security industry has been conceptualised. While the aim of the section was not to provide new definitions or taxonomies, it did point to several substantial problems of constructing definitions and functional systems of classification. In this discussion, an effort was made to point out in what ways modern-day PSCs are not – at least not in an international legal sense – mercenaries. Also, it was argued that while there are good reasons to point to the military characteristics of private companies and their personnel, the term military companies is not as straightforward as some commentators have argued. In addition, it was suggested that Kinsey's taxonomy of the private security industry lends some additional clarity by enabling researchers to situate companies or, rather, services in relation to the means available or used to secure a certain object and the nature of the object to be secured, as well as in relation to several reference points. The taxonomy also makes it easier to pinpoint the focus of a particular project; in the case of this study, the focus is chiefly on companies occupying the lower right quadrant of the taxonomy. Next, the issue of privatisation was considered, and Lundqvist's basic model for identifying patterns of privatisation based on the production, financing and regulation of services was introduced. The key points here are that identifying privatisation patterns (and related changes) facilitates greater precision in terms of what is being privatised and how security privatisation creates new mixes of public and private. Finally, the meaning of security privatisation was developed further. In this context, it was pointed out that beyond the replacement of state actors with private companies, the privatisation of security should also be understood as signalling an increasing role for PSCs in shaping and influencing security issues and policies. In addition to creating a more comprehensive image of the phenomenon, this observation also links the privatisation of security to questions concerning the role and function of the military and the nature of its relationship to the state. As will be shown in the course of the next chapter, these themes are useful points of departure for studying the linkages between security privatisation and state control of force.

## 4. Theorising State Control of Force

A central point of the previous chapter was that the privatisation of security should be understood both as the outsourcing of security- and military-related functions to private companies and as a process whereby these companies become involved in shaping security issues and decisions. When PSCs take on role as technical experts and/or security experts - particularly in the context of armed conflict – they become linked traditional concerns within the field of civil-military relations. In turn, the questions that lie at the core of civil-military relations are very much connected to the ways in which states do (or do not) control the instruments and use of force. This is one reason why some authors have pointed to civil-military relations theory as a way of addressing linkages between security privatisation and issues of state control (Singer 2003; Avant 2005). Building on these observations, this chapter will first discuss how the privatisation of security can be understood in relation to basic ideas in civil-military relations theory and how PSCs are similar to but also fundamentally different from the traditional image of the state military. Secondly, the chapter will outline the way in which security privatisation is linked to the concept of state control of force and how the issue of control is understood and used in the context of this project. In this section, the benefits and drawbacks of relying on the three-dimensional concept of control developed by Deborah Avant (2005) will also be discussed.

### 4.1. The Civil-Military Problematique and State Control of Force

The privatisation of security has the potential to change the composition of the instruments of force and protection and thus the basis for public or state control. Expressed differently, security privatisation transforms civil-military relations by introducing an additional, commercial component into the relationship between the state and the instruments of violence, effectively making these relations more complex.<sup>23</sup> To make sense of these changes and challenges, the constellation of "civil-PSC-military relations" can be viewed as a simple triangle, where attention needs to be placed both on the relationship between the state and private companies as well as between state militaries and private companies or what may be termed PSC-military relations.<sup>24</sup> Focusing on the question of state control, the privatisation

<sup>&</sup>lt;sup>23</sup> This is not to say that PSCs are the only commercial actors around; as several observers have pointed out, outsourcing and contracting have been part of defence policies and practices in the UK and the US for several decades (Edmonds 1999; Kinsey 2006: 97ff; Isenberg 2008a: 2ff). The use of PSCs can be seen as a development of this trend where private alternatives are sought in an increasing number of areas, including, for instance, armed protection for civil servants in conflict areas.

<sup>&</sup>lt;sup>24</sup> Anna Leander has drawn attention to this, suggesting an increased focus on what she has labelled

of security can be fruitfully interpreted in relation to what Peter D. Feaver has called the "civil-military problematique" or what Singer describes as the "the balance of the solider and the state" (Feaver 1996 and 1999; Singer 2003: Ch. 12).

#### 4.1.1. The Basic Issues of Civil-Military Relations

According to Feaver, the civil-military problematique consists of a basic paradox: "The very institution created to protect the polity is given sufficient power to become a threat to the polity" (Feaver 1999: 214). The challenge, therefore, is to "reconcile a military strong enough to do anything the civilians ask them to do with a military subordinate enough to do only what civilians authorize them to do" (Feaver 1996: 149; also Stanley 2006: xv; Egnell 2008: 15ff). One of the basic objectives of civil-military relations theory is to understand the relationship between the military and the state, and in particular to study the balance (or lack thereof) between civilian control and the need for military autonomy (Singer 2003: 196). Basically, the military is created by civilians who "recognize the need for instruments of violence" to defend the state, and so they "establish the military institution and contract with it the mission of using force on society's behalf" (Feaver 2003: 57). In short, serving the state is the raison d'êtere of the military institution (Wolfendale 2008: 219). This places the military in direct relation to the state, firmly linking it to issues of national security, territorial integrity and state sovereignty (Huntington 1957: 1ff; Buzan et al. 1998: Ch. 3).

In theory, the relationship between civilians and the military is hierarchical, where the "civilian masters" enjoy a privileged position; importantly, civilians have "legitimate authority over the military, whatever their de facto ability to control the military may be" (Finer 2006: 6; Feaver 2003: 54; also Avant 2005: 41f). According to Richard Kohn, this is particularly important in democratic systems:

For democracy, civilian control – that is, control of the military by civilian officials elected by the people – is fundamental. Civilian authority allows a nation to base its values, institutions and practices on the popular will rather than on the choices of military leaders (Kohn 1997: 141).

Expressed differently, the military – in their role as security experts – should be able to identify threats to the state and suggest responses to deal with these threats, but only the civilians (or their elected representatives) can/should ultimately set the limit of acceptable risk to society (Feaver 1996: 153; Feaver 1999: 215; also Huntington 1957: 15). Kohn expresses this point well when he writes that the purpose of the military "is to defend society, not to define it" (Kohn 1997: 142).

<sup>&</sup>quot;civil-PMC relations" (Leander 2007: 50). The observation here is that besides civil-military and civil-PSC relations, research also needs to consider the PSC-military relations in analysing cases of security privatisation.

The concerns that lie at the heart of civil-military relations are very much linked to state or civilian/democratic control, and hence civil-military relations tell us much about the structure of the relationship between the state and its largest instrument of violence. Moreover, researchers in this field have devoted considerable energy to analysing the nature and organisation of the military. This is helpful for students of the contemporary private security industry in their efforts to analyse how private companies relate to (and differ from) contemporary (and past) models of military organisation. While PSCs display features and provide services that connect them to conventional images of the military, they also differ from the military in some crucial respects. The starting-point for this discussion is in some previous efforts to conceptualise and analyse the military institution and the nature and importance of military professionalism.

In stark contrast to earlier forms of violence-using organisations, the modern army,<sup>25</sup> as described by S.E. Finer in *The Man on Horseback*,

is a *purposive* instrument. It is not a crescive institution like the church; it comes into being by fiat. It is rationally conceived to fulfil certain objects. One may be to assist the civil power, but the principal object is to fight and win wars. The highly peculiar features of its organization flow from this central purpose, not from the secondary one, and find in it their supreme justification. These features are (1) centralized command, (2) hierarchy, (3) discipline, (4) intercommunication, (5) *esprit de corps* and a corresponding isolation and self-sufficiency. (Finer 2006 [1962]: 7)

According to Finer, the "highly peculiar features" of the army's organisation are justified by the main purpose for which it has been "rationally conceived", namely to fight wars on behalf of the state. In theory, the task of the military is also clearly set off from that of the police. In the words of Bengt Abrahamsson:

The military is an instrument of the civil state for the exercise of violence, supposedly against other states. In theory at least, control of domestic violence is assumed to be the responsibility of the police, militia, and other para-military forces, while the military is trusted with defending the state against external aggression. This is the essence of the idea of civimilitary relations in modern countries and the official raison d'etre for the military establishment. (Abrahamsson 1971: 18)

<sup>&</sup>lt;sup>25</sup> There are discussions about developments and changes in military organisation and civil-military relations. For instance, it has been suggested that changes in the armed forces – especially in the West – makes it appropriate to distinguish between the "modern military" of the nineteenth and twentieth century, and the "postmodern military" of the post-Cold War era (Moskos, Williams and Segal 2000). Also, it has been noted that the traditional image of the military as linked to the defence of the state is problematic because of the increasing use of military forces to perform broader regional and international security and humanitarian tasks (Cheeseman 2005). This section does not relate to these changes but tries to establish a generalised image of the basic issues of military organisation and its relation to the state to spot differences and similarities between PSCs and the military.

Yet the ideal image of the military as an instrument of the state tasked with the defence against "external aggression" is not unproblematic. For Finer, there are no given or "natural" reasons as to why the military should conform to the wishes of the civil power. Departing from this argument, Finer poses a salient question that aims at the heart of the relationship between the state and the military:

The armed forces have three massive political advantages over civilian organizations: a marked superiority in organization, a highly emotionalized symbolic status, and a monopoly of arms. They form a prestigious corporation of Order, enjoying overwhelming superiority in the means of applying force. The wonder, therefore, is not why this rebels against its civilian masters, but why it ever obeys them. (Finer 2006: 6)

Elaborating on the question of control, Huntington argues that two potentially conflicting forces shape the patterns of civil-military relations: "a functional imperative stemming from the threats to society's security and a societal imperative arising from the social forces, ideologies and institutions dominant within the society" (Huntington 1957: 2). Potential problems of balancing these two forces basically arise from the relations between the officer corps and the state; the former is seen as the "active directing element of the military structure and responsible for the military security of society", while the state is seen as "responsible for the allocation of resources among important values including military security" (ibid: 3). To a large extent, then, the structure and disposition of the officer corps – the military professionals – is at the centre of the relation between the state and the military.

Military professionalism is, just like the modern army, of recent date and according to Huntington, it comprises three main features: military expertise, social responsibility and corporate loyalty to fellow specialists (Huntington 1957: 11-18, Ch. 2; Finer 2006: 23ff). This means that, effectively, military officers are "technicians in the management and organisation of violence; they feel a responsibility to their client (i.e. the state); and they have a powerful corporate tradition and organization" (Finer 2006: 24). There are conflicting ideas as to the consequences of military professionalism for civilian control (e.g. Perlmutter 1977: 33ff; Egnell 2008). Huntington sees in the maximising of professionalism a way of making the military an expert organisation and an apolitical tool of the state (Huntington 1957: 80-85). Finer, on the other hand, is critical of this view and argues that professionalism is not enough to secure civilian control; on the contrary, professionalism can be the source of conflict between the military and the civil authorities. This line of reasoning is easily understood if we consider the second characteristic of professionalism: social responsibility. From Finer's point of view, "the military's consciousness of themselves as a profession may lead them to see themselves as the servants of the state rather than of the government in power" (Finer 2006: 25). Indeed, this purported care for, or identification with, the "state" or the "nation" or "national interest" may be a source of loyalty and compliance but has also been an important cause for military interventions in politics. If civilian authority is to be secured, Finer points out, the military "must believe in an *explicit* principle – the principle of civil supremacy" (ibid., emphasis in original). Janowitz also points out that Huntington's view of professionalism and control is not unchallenged; it can be argued that "the military can only be controlled by being effectively integrated into the larger society, not merely by being professional" (Janowitz 1960: 343).

Of course, the nature of a particular state (stable, unstable, democratic, totalitarian etc.) will influence the relationship between the holders of political power and the military and we might speak of different types of military organisations (e.g. professional, revolutionary, praetorian etc.) in different states (Perlmutter 1977). Yet we need not to dig deeper into civil-military relations classics to see how the modern military has become intimately and even inextricably linked to the state (in sharp contrast to personal or mercenary armies of the past). In theory, Perlmutter argues, the modern military is a highly professional, integral and (in the ideal form) subservient part of the state bureaucracy (Perlmutter 1977: 24f). From this perspective, he observes that "the military establishment, like any other instrument of the state, has no autonomous reason to exist. It can exist only if its client defines its functions, expectations and behaviour" (ibid: 26). The question now of course is how PSCs may be understood in this context.

#### 4.1.2. Modern Militaries and PSCs compared

Placing the simplified and generalised image of modern (Western) civil-military relations in relation to the private security industry, it is fairly easy to see that many PSCs and their staff – particularly those offering services in unstable environments – share some of the basic features of the modern military. Like the military, many PSCs boast (and indeed live off) a high level of military and technical expertise as well as professional training, hierarchical organisation, discipline etc. However, they also differ in some crucial respects. Taken together, these differences suggest that the idea of state or public control of force must be modified in order to incorporate the differences between these entities. What, then, are the most important differences apart from the obvious fact that militaries are public institutions while PSCs are private actors?

Firstly, the principal object of PSCs is not to fight and win wars on behalf of a state (even if this is what they have occasionally been hired to do), but to sell their services to state *and/or* non-state clients on a more or less global market. Secondly, they are not tied to any particular state in they way national militaries are; they do not necessarily have a social responsibility only to *one* client. Thirdly, though companies and their staff may have close professional and emotional ties to a country, their essential nature (as business enterprises) does not *necessarily* entail

identification with a state (nationalism/patriotism) or the conformation to the national security goals of a particular client (loyalty). Fourthly, private companies rely upon business contracts with clients, quite different from the social contract between the state and the military, where this tight relationship or contract is "ritualized in the officer's oath of allegiance and reinscribed through a myriad of cultural symbols" (Feaver 2003: 57). Finally, because economic goals (e.g. making profits) are of paramount importance to most private companies, it may be argued that they do have reasons to exist that, ostensibly, are not shared by national militaries. Of course, economic motives may certainly be relevant for individual soldiers but not, as Jessica Wolfendale points out, for the military as an institution (Wolfendale 2008: 218; also Krahmann 2008: 254ff).

Judging from these observations, it soon becomes quite clear that the privatisation of security has the potential to change and challenge the ability of states to control the use of force in several ways. The differences also point to the limited possibility of incorporating non-state actors such as PSCs into mainstream civilmilitary relations theory and analysis. Even so, civil-military relations theory provides some of the basic tools for structuring and developing the thinking on the relationship between the state and violence and the question of state control of force. As Singer concludes, one central question is how the thinking on civilmilitary relations can be modified so as to encompass the use of PSCs (Singer 2003: 233). In the face of the many differences between private companies and versions of the modern military (citizen-soldiers or voluntary professionals), one suggestion is to interpret security privatisation as the rise of a new ideal-type model of the soldier in Europe and North America - the military entrepreneur or contractor (Krahmann 2006 and 2008). While the nature and impact of privatisation on the overarching logic of military organisation is still subject to debate, it is clear that the use of PSCs in the context of armed conflicts such as Iraq alters to some extent the composition and organisation of the instruments of force and protection as well as their relationship to the state.

Not only do public and private "forces" display different characteristics, privatisation also creates a mix of public and private actors and structures that influence civil-military relations and the ways in which these are expressed (or operate) in specific settings. Introducing an additional, commercial component in

<sup>&</sup>lt;sup>26</sup> The oaths that soldiers take when they enter military service or when they become officers symbolise the close emotional ties between these individuals and the state/nation. For instance, in the Swedish equivalent to the British Oath of Allegiance or the US Oath of Enlistment/Office – the so-called *Soldaterinran* (basically a reminder of the soldier's duties towards the country) – the message of obedience and duty to the country is clear: "In peace as well as in war we shall conscientiously and to the best of our abilities fulfil our duties and obey orders. [...] If war comes, we shall use our collective power to defend our country to the utmost" (Swedish Code of Statutes/Svensk författningssamling (SFS) 1996: 927, my translation).

the relationship means that the instrument (or the agent) cannot be understood solely as an integrated part of state bureaucracy. In turn, this suggests that changes in state control are to be expected. Such changes are at once challenging and unsurprising; it is true that in the modern period and particularly since the late nineteenth century, the control over the instruments and use of force by national governments has increasingly been construed as fundamental to the organisation and authority claims of sovereign states. At the same time, and as will be clearly demonstrated in the course of the next chapter, a high level of state control of violence (a monopoly or, rather, a near monopoly) is historically an exception. Still, if we want to know more about how the privatisation of security relates to the question of state control on a more technical level, it is necessary to be more specific about the interrelations between the concepts. Therefore, the task of the next section is to outline more concretely how the privatisation of security relates to the concept of state control of force as seen through the lens of civil-military relations.

### 4.2. The Privatisation of Security and State Control of Force

Drawing on Avant (2005), this thesis will make use of a concept of state control of force based on classical concerns within the civil-military relations literature. As indicated in the previous section, pioneering civil-military relations theorists offer some important ideas and insights into state control over the military. Some of these ideas have been fruitfully adopted by Avant in her research on security privatisation and related challenges to state control. Certainly, there are many ways in which the question of how states control or govern the instruments and use of force and coercion nationally and in the global system can be addressed. Because it is grounded in civil-military relations theory, the approach adopted here is state-oriented and focuses primarily on the formal arrangements (or lack thereof) of state bureaucracies to create working systems of state control through authoritative regulation and oversight mechanisms on different levels.<sup>27</sup>

<sup>&</sup>lt;sup>27</sup> Admittedly, security privatisation need not only be seen as changes and challenges to the formal and perhaps more tangible modes of state control. In his discussion of security theory and shifts away from the state as the main referent object, Huysmans calls attention to three different forms or techniques of government as outlined by Foucault, each of which may be linked to issues of state control. The so-called sovereign form of government is one of the three techniques and indicates government "by means of a rule of law and the coercive capacity of political, administrative, and judicial institutions" (Huysmans 2006: 39). The two additional techniques of government are discipline and governmentality; the former linked to government through administering the location and movement of individuals, the latter dealing with the government or administration of populations (ibid.). This thinking opens up for analyses of security privatisation in relation to issues such as security, surveillance and policing not only through the lens of sovereignty but also as practices of discipline and governmentality or biopolitics (for one example, see Lobo-Guerro 2007).

In addition, security privatisation is seen as increasing the prospects for non-state/private regulation and control mechanisms.<sup>28</sup> To clarify this thinking, the subsequent pages will elaborate on the concept of state control and the ways in which it may be changed and challenged by the privatisation of security.

In the literature on security privatisation that deals explicitly with state control from a civil-military relations point of view, it has been argued that the inclusion of PSCs into the civil-military balance can have both stabilising and destabilising effects and may increase and/or decrease state control of force (Singer 2003: 197-205; Avant 2005: 253ff). To be sure, the outcome of privatisation depends on a number of factors, such as the type of company, the nature of the contract (what the company is hired to do), the type of client (public or private, strong or weak state), and the context in which services are delivered (war, peace, postconflict environments). Moreover, the way in which the outcome of privatisation is assessed in relation to state control will of course depend on the meaning ascribed to the term control. On the level of the state, control may be thought of as the ability of the state to monitor and enforce compliance with the rules that are set up under its authority (Thomson 1995: 223). Elaborating on the concept from the point of view of civil-military relations theory, Avant suggests that control should be understood as consisting of three basic dimensions, all of which are relevant in the empirical research on security privatisation.

Avant's point of departure is the fact that arguments of both "optimists" and "pessimists" about the positive or negative impact of security privatisation on state control appear to find support in the empirical evidence. This situation, Avant argues, results from different conceptions of the control of force (Avant 2005: 5). Surveying the literature on security privatisation, Avant identifies three basic meanings assigned to the concept of control, each related to central themes found in the early work on civil-military relations theory by Huntington (1957), Janowitz (1960) and Finer (2006 [1962]). The three dimensions of control are: functional control which is about the capabilities and effectiveness of the armed forces; social control, dealing with the integration of the use of force with social norms and values such as democracy, international law and human rights; and political control, meaning the subjection of the use of force to political or civilian rule and decision-making (ibid: 5ff, Ch. 2). All three dimensions are related to the institutionalisation of the instruments and use of force. Employing an institutional perspective means paying attention to existence and nature of formal

<sup>&</sup>lt;sup>28</sup> The idea of evolving non-state forms of authority or modes of governance is in line with arguments and observations put forth in the literature on globalisation, where challenges and/or changes to the state (as it has been envisaged in the Westphalian era) are frequently expressed as issues or problems of (global) governance, involving the regulation, decision-making and action by both state governments and non-state actors on different levels of the system (Scholte 2005: 140f; Rosenau 2003; Hettne 2002: 6f; Held *et al.* 1999: 50f).

and informal rules and constraints that apply to the use of force by (and the relationship between) state actors and private companies, as well as characteristics of enforcement mechanisms related to the activities of these actors (North 1990: 36-61; North 2005: 22; Ruggie 1998: 54). For instance, in terms of political and social control, this entails studying issues related to the screening, selection, monitoring and sanctioning of PSCs and their personnel, as well as the impact of security privatisation on the promotion of (and adherence to) certain norms and standards (Avant 2005: 56).

Developing the argument on the effects of privatisation on the control of force, Avant discusses three different "situations" in which privatisation occurs: 1) "when states contract for private delivery of security services"; 2) "when states regulate security services exports"; and 3) "when non-state actors finance security services" (Avant 2005: 57). Recalling Lundqvist's taxonomy outlined in Chapter 3, we might instead think of these situations as corresponding to the three categories of privatisation, i.e. the (de-)production, (de-)regulation and (de-)financing of services or activities. Using these categories, it is then possible to start discussing the potential challenges of security privatisation in relation to states' control of force (ibid: 58-80, 253ff). Breaking the concepts of control and privatisation into different dimensions is useful because it moves research beyond oversimplified or one-dimensional understandings of the concepts and their interrelationships. This makes analyses of cases of privatisation more structured, more balanced and perhaps less prone to exaggerations as to states' loss of control and the dangers, or indeed benefits, related to private security and military services.

At the same time, measuring the impact of privatisation on state control is not a straightforward matter. In this respect, Avant's study is somewhat problematic because it basically argues that "pure" instances of privatisation (or what she refers to as situations) can be isolated and measured. Hence, it does not – at least not explicitly – take into account the existence of different combinations or patterns of privatisation and their combined impact on state control (e.g. the combination of a certain degree of deregulation *and* private production of services) and the mixing of public and private actors and structures that is such a central characteristic of the privatisation of security. Still, Avant's study is highly important because it allows for a more comprehensive image of state control of force from a civil-military relations perspective. In combination with Lundqvist's model of privatisation, it provides a useful framework for identifying and discussing challenges and changes to state control in a case such as Iraq.

Here, it deserves to be repeated that in order to make sense of security privatisation and issues of state control and civil-military relations, it is important to look at this development from different perspectives. Also, it is essential to discuss the potential impact of privatisation not only at the level of state bureaucracies and institutions, but also how challenges related to control emerge on the ground, for

instance at the level of military operations. In cases of security privatisation in and around armed conflicts, for instance, one may look at privatisation in relation to aspects of functional control such as military capacity. On the same level, it is useful to study the interaction (e.g. cooperation and communication) between state and non-state actors on the ground to gain a better understanding of how and why challenges to state control of force occur and what role the relationship between the military and private companies plays in this context. To be able to do this, however, we first need to develop the discussion of the three basic dimensions of state control.

#### 4.2.1. Privatisation and the Functional Control of Force

In the civil-military relations literature, functional control is about the capabilities of the military and its effectiveness in defending the state (Avant 2005: 6, 40f). This dimension of control is closely linked to one of the central components of the aforementioned civil-military problematique: in order to fight wars and/or to effectively ward off attacks on the state, there is a (perceived) need for a military organisation capable of fulfilling these goals (Feaver 2003: 4, 61; Huntington 1957: 2f). Hence, functional control emphasises the ability of the polity to create a military capable of effectively providing security for its client – the state (Avant 2005: 41). The question of what makes up an effective military (in a given situation or generally) is undoubtedly important but naturally much too complex to be addressed here. Instead, the central task here is to outline some of the ways in which security privatisation creates challenges and prospects related to different aspects of functional control.

Under certain circumstances, privatising security can increase functional control. For instance, letting private companies produce, say, bodyguard services can give speedy access to functions that are perhaps not readily available within the armed forces, thus enhancing (at least in the short term) the capabilities of state institutions (ibid: 58f, 66ff). As we shall see, this argument about "surge' capacity" is sometimes used to motivate the decision to rely on PSCs for certain services (Avant 2006: 331). Talking about functional gains, one also needs to pay attention to the issue of cost. Lowering the cost for the provision of a certain service is often a primary argument for privatising in the first place, and it may be argued that if the costs for security or protection are reduced through privatisation, then functional control is gained. On the other hand, contracting out security and protective services also means that states normally have to create ancillary control mechanisms to ensure compliance on part of the contractors. In turn, such institutionalised mechanisms have associated costs which may reduce the (functional) gains that states hope to make through privatisation (see e.g. discussions of cost in relation to oversight and enforcement by Feaver 2003: 57 and North 1990: 58). As we shall see, the gradual increase in oversight and control mechanisms in the case of Iraq might in fact have reduced the gains in functionality that contracting states apparently expected to make from security privatisation.

Turning back to the issue of increased functionality, it can also be argued that security privatisation increases functional control because it opens up for "foreign policy by proxy" and thereby allows states to bypass normal political procedures or to perform politically sensitive operations while retaining deniability (Avant 2005: 68; Mandel 2001: 134). Put differently, privatisation in this perspective would signify "an expansion of the state's capacity to act through private agents" (Whyte 2003: 599).<sup>29</sup> However, outsourcing may also drain the military of core competences, thus creating challenges to functional control. As an example, Singer points to the fact that a number of top US logisticians and military trainers are now employed by the private sector and not by the military (Singer 2004: 15). Another example is the recruitment of personnel from the armed forces (e.g. with Special Forces training) to the private sector. Through this process, important and expensive knowledge is lost and states looking to increase capabilities by engaging private companies end up contracting for skills and functions they originally built up and financed (ibid: 9, 16; Avant 2005: 65; also Isenberg 2004; 26ff; Kinsey 2006: 107).

Closely related to these arguments is the question of how privatisation influences military capacity and operations, especially in the context of violent conflict. Sarah Percy proposes the term "military control" as a version of Avant's concept of functional control to cover problems of command and control between armed forces and private companies, particularly at the operational level (Percy 2006: 17). Essentially, because PSCs frequently operate outside the normal military chain of command, their involvement in theatres of operation may hamper military control by adding "another level of complexity to the military decision-making process" (ibid.). In addition, the involvement of PSCs in the context of violent conflict may give rise to problematic PSC-military relations, for instance in terms of cooperation, communication and coordination between state and non-state actors and operations, all of which imply potential problems or friction<sup>30</sup> at the operational level (ibid: 17f; Singer 2004: 7f). Hence, the nature

<sup>&</sup>lt;sup>29</sup> Several authors have pointed to the potential linkages between security privatisation and the potential "proxyisation" of security and of armed conflicts, particularly in relation to the use of private companies in conflicts on the African continent in the 1990s (see e.g. O'Brien 1998: 91; O'Brien 2000a; Arnold 1999: 169; Francis 1999: 333ff; International Alert 2000; Lilly 2000; Howe 1998: 325).

<sup>&</sup>lt;sup>30</sup> The term friction is a central concept in Clausewitz's thinking. On a basic level, friction distinguishes war in theory from war in reality; it is "the factor that causes the easy and graceful act of walking to appear difficult and clumsy when it is carried out in water" (van Creveld 1991: 107; von Clausewitz 1993: 138ff). Friction is caused, among other things, by the fact that armed forces consist of many different parts that need to interact with each other (van Creveld 1991: 107). In simple

and level of institutionalisation of working relationships between the military and PSCs in a case such as Iraq are interesting because they provide insight into the implications of privatisation for functional/military control.

In addition to the potential challenges to military control and the drainage of state expertise and knowledge, the behaviour of PSCs in the execution of their contracts may, as Avant points out, "affect the reputation of the state from which it hails or implicate the state in conflicts to which it is not a party" (Avant 2005: 65). If the behaviour of companies is at odds with government policy or security strategies, this implies a challenge to functional control. If, on the other hand, their behaviour is seen as promoting government policies, functional control may be gained through privatisation. Put differently, the ways in which PSCs conduct themselves in the field reflects not only upon themselves, but also upon state actors with whom they are associated. In turn, this may result in security problems for the companies as well as for states and their representatives. In some cases, this could mean that the object to increase security by hiring a private company may end up being counter-productive. Of course, states may (and do) try to influence the behaviour of security companies by introducing regulations and instructions of different kinds and by changing their preferences and requirements, thus gaining (or regaining) functional control (ibid: 66f). As we shall see, issues such as regulation are closely linked to the political and social control of force.

## 4.2.2. Privatisation and the Political and Social Control of Force

Above, it was argued that ideally, the relationship between the civilian leadership and the military is a hierarchical one; regardless of the strength of the military, civilian decisions and judgements should carry the day (Avant 2005: 41; also Feaver 2003: 5f). In relation to this ideal, Avant suggests that the political control of force is about the adherence of force to political structures or the subjection of force to political or civilian rule and decisions. With the privatisation of security, political control may change if decisions about the use of force are redistributed among different actors (Avant 2005: 42). However, in a civil-military relations context, the control of force is not only about the capacities of the military or the subordination of the military to civilian or democratic authority. The control of force, as Morris Janowitz has observed, also entails an integration of the use and instruments of force with "civilian" or "common" values (Janowitz 1960: 420, 440). Pointing to the relevance of Janowitz's observations for research on security

terms, it is possible to argue that privatisation adds yet another part that may cause more friction *or* that private alternatives are more effective than public ones, thus reducing friction under certain circumstances.

privatisation, Avant proposes the term social control of force. According to Avant, social control means that the instruments and use of force can be more or less consistent with values, norms and popular expectations. This means that the social control of force is expected to vary "by the degree to which the tools that perform security tasks reflect ... prevailing societal values" (Avant 2005: 42).<sup>31</sup> In more concrete terms, the focus is on the implications of security privatisation for the relationship between force and what Avant identifies as currently prevailing "international values" such as democracy, human rights, international law or the laws of war, and civilian control over the military (ibid: 43f). Before elaborating on the impact of privatisation on social and political control of force, a few more words concerning the category of social control are called for.

In Avant's study, functional control and political control are rather straightforward concepts that clearly link up with the civil-military relations literature. Social control, however, appears to be a less developed category that should perhaps be treated with some caution. Certainly, the "international values" and "norms" referred to in the study are far from insignificant; democracy, human rights, and civilian control over the military are, as Avant points out, highly important in the rhetoric of political leaders of Western states and sometimes beyond. However, it is also clear that these norms are not universally endorsed and that they are interpreted differently in different contexts (Avant 2005: 43). Benson remarks that Avant's reference to "international values" is problematic not only because they are less than international or universal, but also because it is unclear how they determine or restrain behaviour (Benson 2007). Avant points out that ascertaining how security privatisation affects the integration of force with "international" values related to violence is complicated and she partly avoids the issue by concentrating on "whether values are more or less likely to be referred to" by different actors (Avant 2005: 43, 44 n. 15). However, that these values and norms are frequently referred to and promoted as "good" or desirable does not automatically mean that they are highly institutionalised, in which case there would be a strong link between values and the behaviour of actors and individuals (Benson 2007; also Ruggie 1998: 54). Thus, when actors give lip service to particular norms and rules, this does not automatically mean that they (the rules and norms) shape the actual behaviour of these actors (Krasner 1999: 56f). In other words, the fact that state representatives, militaries or PSCs proclaim commitment to these "international"

<sup>&</sup>lt;sup>31</sup> Certainly, that social values change over time is true also when it comes to violence. As will be shown in Chapter 5, practices and behaviour related to the use of non-state violence and protection that were once accepted have subsequently fallen into disregard. As Avant points out, "[t]he current structure of military professionalism and the values it reflects has developed in a particular institutional environment: national militaries and interaction between them. Changes in that environment [e.g. as a consequence of privatisation] may result in changes in future values, norms, and practices" (Avant 2005: 63).

values is emphatically not the same as *acting* in accordance with them. Aware of these problems, the category of social control is still important and useful to research on security privatisation because it provides researchers with one way of showing how issues related to these oft-cited "international" norms and values are used in cases of security privatisation.

After these words of caution, the ways in which security privatisation can be expected to affect political and social control can now be discussed further. As noted above, states' use of private companies to supply armed security services introduces new commercial components into the civil-military balance. This practice may affect the political control of force by creating an additional level of decision-making and influence. According to Avant, the removal of direct state authority over the organisation of force indicates a change in political control, for instance by limiting the range of consequential control mechanisms available to the state (Avant 2005: 59). A concrete example of this change is when the task of screening and selecting the individuals who will supply the procured services are left in the hands of the companies themselves, or even subcontracted to other private screening companies. This, Avant points out, is a change in political control because "the control over individuals authorized to use violence slips into the hands of a firm rather than being in the hands of the state" (ibid.). Another example can be found in instances when non-state actors become involved in the financing of security services. Under these circumstances, (budgetary) decisions concerning the organisation of force may be transferred to non-state actors, thus changing political control (ibid: 70ff).

Moreover, the privatisation of security may reshuffle influence among state institutions by changing the process by which the instruments and use of force are created and deployed. The process of contracting for security is not necessarily subject to the same level of transparency and oversight as the process of organising and deploying the national military. Apart from granting influence to private companies in the organisation and deployment of force, Avant also suggests that contracting generally favours executives (i.e. those in control of disbursing the contracts) relative to legislators (i.e. those in charge of democratic oversight) (ibid: 60). Taken together, this means that state contracts with PSCs changes the political process by redistributing power among government institutions and by creating prospects for private companies to influence decisions about security and the use of force (ibid: 68). Of course, these changes and potential challenges are bound to look very different depending on the context in which security privatisation takes place.

Turing back to the issue of social control, Avant argues that the impact of the privatisation of security on social control depends on the level of integration with certain values among contracting entities. Since the present investigation is chiefly concerned with consolidated and powerful states such as the US and the UK, this

means that the instruments and use of force can be expected to be (claimed to be) integrated with "prevailing" norms and values such as democracy, the rule of law and civilian control of the military. In turn, this indicates that these norms and values should (at least in theory) be internalised by the active military and security professionals of these societies and presumably also by former employees who have found their way to the private security sector (Avant 2005: 60f). As a result, Avant argues, the "institutionalization of international values in strong states – the obvious 'good' attached to these values ... and their reinforcement in day-to-day practice – should lead PSCs that contract with strong states to proclaim their commitment to international values and to be more likely to act in accordance with them" (ibid: 61). Yet, as pointed out above, the impact of these values on behaviour is not straightforward.

Still, for strong states, outsourcing certain security functions to PSCs need not automatically entail challenges to social control - especially not in cases when company personnel are made up of retired or former security or military personnel. In addition, it is true that states can influence the adherence to certain values in drawing up contracts and through their choices of contractors. In this context, however, it is interesting to note that the very action of privatising security in a case such as Iraq "flies in the face of the international norm that security should be the exclusive realm of states" (Avant 2005: 69). As will be shown in the next chapter, many of the old practices of utilising non-state forms of violence and protection have gradually fallen into disrepute in the modern period. Hence, while states may promote adherence by PSCs to a number of purportedly international values, their use of the services provided by the companies also signals an indifference to or a willingness to change the norm that "states have primary responsibility for and monopoly over legitimate security services" (ibid.). In this perspective, privatisation is indicative of a broader change where contracting out security is increasingly being perceived as a legitimate practice.

Finally, it is necessary to return to the complex link between values and norms and behaviour. There is no denying the importance ascribed to values such as human rights, the laws of war or civilian control in the political discourse of state leaders or in military training manuals. Yet the point is that adherence to these values – even among highly trained professionals from Western militaries – does not follow automatically and cannot be taken for granted. In the case of Iraq, one clear example allegedly including both active duty military and some of the around 30 contracted interrogators/translators from two private companies (CACI and Titan Corp.) is the abuse of prisoners at the Abu Ghraib prison (Isenberg 2004 and 2008: Ch. 5). In fact, it can be argued that although norms and laws that supposedly govern the behaviour of armed forces in armed conflicts have existed for a considerable period of time, the record of the actual adherence to them has frequently been far from encouraging to say the least (see e.g. Cassese 2005: Ch. 20; also Howard *et al.* 1994; Best 1983). Nonetheless, in a case such as Iraq,

it is relevant to look at the ways in which PSCs and their organisations refer to different values and how they endeavour to promote or assure compliance with these values among their employees. Conversely, the ways in which state actors such as the US and the UK promote or rewards adherence to certain norms and values, as well as the ways in which instances of non-compliance are punished are also important to study in order to be better placed to identify indications of changes and challenges to social control and the ways in which these may be connected to changes in political and functional control.

#### 4.3. Conclusions

The purpose of this chapter has been to develop a central part of the theoretical framework of this thesis, namely the meaning and application of state control of force. This was done primarily by approaching the concept of state control through some of the central problems identified in the literature on civil-military relations. From the discussion of the basic paradox described as the civil-military problematique, it soon became clear that a core concern within civil-military relations is how to place the military and military professionals under civilian (democratic) control. However, while there are many parallels to be drawn between civil-military relations and the privatisation of security, it deserves to be repeated that there are also fundamental differences between the military and private security companies, especially in terms of their relationship with the state and their principal aims. These differences are important to keep in mind because even though there are good reasons for analysing security privatisation through civil-military relations theory, PSCs are not the military, nor are they integrated parts of state bureaucracies. Even though they are often staffed by former military professionals and frequently perform functions associated with the activities of the military, one must not lose sight of the fact that they are essentially private companies working under business contracts with state and non-state clients.

This observation is linked to another central point made in this chapter, namely that the privatisation of security should be understood as a process whereby private companies in the shape of PSCs become an additional part in the relationship between the state and the instruments and use of force. This means that in order to create a more comprehensive image of the linkages between security privatisation and state control of force in a given case, attention needs to be placed not only on the relationship between the state and private security companies, but also on the relationship between PSCs and the military as well as on pre-existing civil-military relations. In concrete terms, this means looking at different manifestations of these relationships, for instance in the form of contractual arrangements between state agencies and PSCs, issues of communication, cooperation and coordination between militaries and PSCs, or differences in the working conditions for military and PSC personnel. To structure the analysis, this thesis employ Avant's concept of

state control of force as including a functional, a political and a social dimension.

A key point here is that the privatisation of security may affect all three dimensions of state control in different directions. In other words, it is not necessarily the case that privatisation automatically decreases (or increases) state control across the spectrum. Yet even though security privatisation under some circumstances may enhance functionality, such gains (for the contracting state/agency) may well bring with them changes and challenges in the other dimensions of control. Applying this three-dimensional concept on the case of Iraq means looking for ways in which the use of private security companies links up to the issues of functionality, political (and military) decision-making and oversight, as well as the potential connections between security privatisation and the promotion of certain norms and values associated with the use of force. Essentially, the analysis of changes and challenges to state control in the case of Iraq will depend on the creation of a thorough image of what is being privatised in terms of the production, financing and regulation of military- and security-related services. However, as pointed out in the previous chapter, it is difficult to isolate (and thus to measure) discrete forms of privatisation. Rather, one should expect different mixes of public and private functions and responsibilities in empirical cases. While this limitation does not cancel out the usefulness of looking at different categories and patterns of privatisation, it does point to the problems of drawing clear lines between different forms of privatisation and particular dimensions of state control.

Before going on to the questions of how privatisation has developed in the case of Iraq and how this relates to the question of state control of force, the following two chapters will address the first research question by investigating the relationship between the state and violence in a historical perspective and the acceleration of security privatisation in the post-Cold War period. The idea is to show how changes in the relationship between the state and violence have been, and continue to be, central parts of state formation and change, and how different forms of non-state violence and protection have frequently been utilised in these processes. While it is certainly true that many forms of non-state violence have been largely abandoned, de-legitimised and even outlawed, these practices did not disappear entirely. Thus, even if the recent expansion of the market for private security and military services has been shaped by a number of developments and changes that are specific to the past few decades, the privatisation of security is not merely a break away from the past. In a wider perspective, the use of PSCs in the case of Iraq appears less of a novelty than is sometimes argued and more in line with the varying nature of states' relationships to the instruments and use of force.

# 5. The State and Violence in a Historical Perspective

The degree of success achieved by a government in claiming the legitimate use of physical force; the completeness of its monopoly of this, the assurance of its legitimacy, and the extent of its territorial jurisdiction – every one of these fluctuated during the last millennium, and every one admitted and still admits of *degrees*. (Finer 1975: 85)

Empirical analyses of the state-building process reveal that state authority and control vary over time and across both states and issue-areas. The state-centric paradigm's state never existed anywhere but in theory. While not determinant, the level of state control over the exercise of violence is a principal explanation for this variance. (Thomson 1995: 226)

At first glance, the observations by Finer and Thomson appear trite and selfevident, but they are not. On the contrary, they convey a powerful critique of oversimplified and static assumptions about the state and its relationship to violence that pointedly expresses one of the main arguments to be developed in the course of this chapter: outside the realm of abstract theorising and ideal models, the state's control over the instruments and use of violence has been, and continues to be, a matter of degree and subject to continuous variation. In this view, the recent re-emergence of non-state forms of violence and protection on a large scale appears more in line with the shifting relationship between the state and violence across time and space. Hence, while contemporary security privatisation may fruitfully be seen as a challenge to dominant conceptions of the state monopoly of violence, the notion of privatisation as a novel phenomenon that erodes the central position of the state vis-à-vis violence and protection is essentially misleading and needs to be problematised. This chapter will show this by placing non-state forms of security and military services in a historical perspective and in relation to state formation processes. Doing so will yield insights into past practices and will provide a better understanding of changes in the relationship between the state and violence. Naturally, there are many histories of "the state"; what is offered here is not a historical expose but a series of arguments and observations based on other researchers' readings and theories of state development and change that serve the purpose of problematising dominant accounts of the state and violence.

To start off, attention will be turned to the process of state formation in Europe, drawing on the theoretical work on state formation by Charles Tilly. The following section will describe some of the major forms of non-state violence and protection in the modern period and the importance of these actors for state formation and consolidation. The discussion will then move on to the issue of

state "monopolisation" of violence, for instance through the creation of national standing armies and the development of the Clausewitzian understanding of war as an affair of state. In the subsequent section, the re-emergence of different forms of non-state violence in the twentieth century will be addressed briefly. Finally, the concluding section will summarise the main arguments on the relationship between the state and violence in a historical perspective and point to their relevance for the subsequent discussion on the recent acceleration of security privatisation. Taken together, this chapter will provide a critique of linear approaches to state formation and change, it will question static images of the sovereign state as a monopolist of violence, and it will show how non-state violence and protection played an important part in the process of state formation and change. This serves the purpose of placing the recent expansion of the market for private security and military services in a wider historical and theoretical perspective, focusing on the theme of the relationship between the state and violence.

### 5.1. A Non-Linear Approach to State Formation

Concentrating on the European context,<sup>32</sup> the following pages places the state and the development of state control over the major instruments of violence centre stage. The aim here is not to present a new history or theory of the state and violence, but rather to offer a historical overview of key state and non-state actors as well as changes and developments that are central to make sense of the shifting nature of the relationship between the state and violence in the past and its relevance for understanding the privatisation of security. Without claiming to do justice to the vast body of scholarly work dealing with state formation and change, some central ideas about the development of states and the creation of violence-using institutions will be outlined and discussed below. Because of

<sup>&</sup>lt;sup>32</sup> As pointed out in Chapter 1, the focus on the European experience does suggest a certain bias and opens up for the kind of critique often levelled at Eurocentric reviews of the history of state formation. Well aware of the problems of generalising the history of state formation in Europe to other settings (and even to talk about *a* European experience), the argument here is that some practices that developed (or were re-invented) in Europe and that were subsequently exported in the period of colonisation – frequently through violent means – are of special interest and relevance in an analysis of the relationship between the state and the instruments and use of violence. The argument is not teleological; i.e. it does not assume that one particular model of the state is the ultimate form or end-state of social organisation, nor does it pretend that alternatives to the modern state never existed or dominated in the past or could develop in the future. The point is simply that the so-called "European" or "Westphalian" model of the state became the dominant paradigm in the modern period and that its development can be used to shed light on the shifting character of state-violence relationships (for discussions along these lines, see e.g. Finer 1997a: 87ff; Tilly 1992: 181-191, Ch. 7; also Bobbitt 2003: 825).

his insightful critique of linear and teleological approaches, and because of his emphasis on the ability of states to amass and control means of violence and coercion, much of the subsequent discussion will build on Charles Tilly's work on state formation and change.

Leaving the late modern period means that the Weberian ideal-type definitions of the state need to be temporarily abandoned. In terms of a monopoly of violence, a well-defined territory, a defined population with a sense of nationality or Gemeinschaft, medieval states and their forerunners "possessed few or none of these characteristics" (Finer 1975: 86; also Giddens 1987: 56f). Until the gradual rise to prominence of "national states" in Europe and elsewhere after the Treaty of Westphalia in 1648, we have to acknowledge the existence of many different forms of states in history, such as city-states, empires and theocracies. Historians have provided different explanations of the rise to prominence of the modern state, and have placed the emphasis on different factors or variables to explain their development. In Tilly's work (1992), the most important independent variables are war and the preparation for war; for Hendrik Spruyt, the main independent variable is economic transformation and, more specifically, the expansion of trade (Spruyt 1994: 30, 32; Ch. 4.). It is not within the scope of the present study - nor within the competence of its author - to decide what variables are ultimately the most powerful. For the purpose of the present discussion, it is enough to argue that war and the preparation for war played an important part in state formation processes and that Tilly's study of state formation provides an excellent point of departure for a review of the variable relationship between the state and violence.

Tilly proposes that in a wider historical perspective, states can be defined generally as "coercion-wielding organizations that are distinct from households and kinship groups and exercise clear priority in some respects over all other organisations within substantial territories" (Tilly 1992: 1). This broad definition is not restricted to, but includes, what we today would call a state. Departing from this generic view of the state and with the purpose of gaining insight into the importance of violence and coercion for state formation, it is instructive to follow Tilly a bit further in his quest for an explanation to the variation in state formation and the eventual convergence in the international system on the model of the national

Here, Tilly's term "national state" or simply "state" are preferred over the more commonly used term "nation-state", mainly because the latter indicates a state whose people share a "strong linguistic, religious and symbolic identity" and because "very few European national states have ever qualified as nation-states" (Tilly 1992: 3; Tilly 1975a; also Buzan 2007: 74ff). National states, according to Tilly, are "states governing multiple contiguous regions and their cities by means of centralized, differentiated and autonomous structures" (Tilly 1992: 2). In this context, the nation-state should be seen as "a special case of the more general form – the national state" (Thomson 1994: 157 *n*.2; also Finer 1997a: 4, 7f).

state.<sup>34</sup> According to Tilly, two variables are of central importance in the history of state formation in Europe: the concentration of production (capital) and the concentration of power (coercion). The underlying assumption is that depending on the position of an organisation vis-à-vis production and power, different paths to state formation present themselves (Tilly 1992: 13f). This argument is of central importance because it goes against teleological arguments about a more or less predetermined evolution towards the present system of states. In the words of Hendrik Spruyt, there is "nothing inevitable about the emergence of the sovereign, territorial state" (Spruyt 1994: 18; also Finer 1997a: 89; Finer 1997c: 1261ff; Giddens 1987).

In Tilly's view, the organisation of the means of coercion is central to the process of state formation, as are the relations among states, especially in terms of war and preparation for war. Coercion is defined as "all concerted application, threatened or actual, of action that commonly causes loss or damage to the persons or possessions of individuals or groups who are aware of both the action and the potential damage" and denotes the realm of domination; capital is defined as "including any tangible mobile resources, and enforceable claims of such resources" and represents the realm of exploitation (Tilly 1992: 19). Like capital, (means of) coercion can be concentrated and accumulated and when they are, states – as in distinct organisations that control the means of coercion within a defined territory – are created (ibid.). In his study of state formation in Europe since AD 990, Tilly identifies four broad stages or trends. These relate to the interrelationship between capital and coercion to the extent that the interplay of competition, technological change and the size of belligerent states made the creation of means of violence or coercion – and thus the conduct of war – more expensive over time. As this trend continued, few rulers could sustain large armed forces with their own capital and were thus forced to borrow and invent systems of taxation, which in turn increased state administrations (ibid: 28f). An overview of the four broad stages illustrates this development well:

<sup>&</sup>lt;sup>34</sup> Certainly, far from all agree with Tilly's intense focus on violence and coercion in his investigation of state formation in Europe (see e.g Spruyt 1994; Goldstone 1991; Hobden 1999). For instance, Thomson argues that Tilly's focus on war and the preparation for war essentially "ignores or understates the contribution of cooperative and peacetime interstate relations" because the state is "a product of both internal and external competition, of conflict and cooperation" (Thomson 1995: 221). Still, the problem of war and violence is central to understanding the development of the state as well as contemporary challenges to the Westphalian order. As Martin van Creveld observes: "One need not need not share Hegel's view concerning the primacy of war in human affairs to agree that one important way by which human societies of any kind develop their internal structure has always been through fighting other societies. After all, no community illustrates this better than the modern nation-state itself, an organization that acquired its characteristic institutions – including specifically the armed forces and their separation from government and people – partly through the need to fight similar organizations" (van Creveld 1991: 195; also Giddens 1987: 53).

Patrimonialism. Period up to the fifteenth century where tribes, feudal levies and urban militias played the major part in warfare. Monarchs generally extracted what capital they needed as tribute or rent from people under their immediate control.

*Brokerage.* Roughly 1400 to 1700; mercenary forces recruited by contractors dominated military activity. Rulers depended heavily on independent capitalists for loans and collection of taxes etc.

Nationalisation. From about 1700 to 1850. States created mass armies and navies drawn from their own populations and armed forces were absorbed into the state's administrative structure and took over fiscal operations etc.

Specialisation. Period from roughly 1850 to recent past. Military force grew as a powerful specialised branch of the national government, the division of labour between the army and the police sharpened, representative institutions came to have a significant influence over military expenditures, and states took on an expanded role in distributive, regulatory, compensatory and adjudicative activities. (Tilly 1992: 29)

Certainly, these periods or themes in history are not distinct, but they point to changes in the relationship between violence/coercion and the state that are of central importance to our understanding of state formation and the monopolisation of violence. In the process of state formation, Tilly argues, "[w] armaking and statemaking reinforced each other, indeed remained practically indistinguishable until states began to form secure, recognized boundaries around substantial contiguous territories" (ibid: 97). As states grew, they began to involve themselves in new activities (besides warmaking, statemaking, protection and extraction). When states ventured into adjudication, production and distribution, these areas began to grow and eventually became the dominant activities of states. In the process, citizens of states were able to make claims on the state (in exchange for serving the state etc.). In the end, Tilly argues, national states (rather than city-states, federations, religious organisations etc.) became the dominant form of social organisation because of their ability to accumulate capital, which in turn allowed them to pay for the armed forces needed to fight increasingly costly wars (ibid: 190; also Lane 1979: 8; Finer 1997c: 1266).

For our present purpose, we need not dig deeper into Tilly's theoretical framework or his findings to point to a set of crucial observations.<sup>35</sup> Suffice it to point out that

<sup>&</sup>lt;sup>35</sup> Nor do we have to accept his postulates or findings uncritically. For example, the critical reader must ask why, in a study of state formation over a thousand years of European history, very little emphasis is placed on the role of religious or other non-state organisations (e.g. the Hanse). Also, while war and warfare are in many ways placed at the forefront of the analysis, the analysis of the causes of war appears shallow; wars are seen simply as "aggressive competition for trade and territory among changing states of unequal size" (Tilly 1992: 54).

Tilly's main achievements are to point to the very different ways in which national states were created and, most importantly, that the creation of states was not a matter of "natural" evolution; at several points in history, other organisations were dominant and there seems to be little to suggest that changes will not occur in the future (ibid: 25ff; 224ff; also Watson 1992; Spruyt 1994: 126ff, 146ff, Ch. 8). For Tilly, war and warmaking in and among states played a decisive part in state formation in Europe; both the instruments of war, the fighting of wars and the ways of funding them developed and changed over time. As can be seen from the rough division of stages or trends above, it was in the period after the French Revolution that states and their coercive instruments (e.g. the military, the police and the judicial system) began to resemble a Weberian model of the state, thus making it a fairly recent invention. Also, and as will be discussed in detail below, it was not until late in the history of the state that violence and protection ceased to be commodities on a more or less international "market" and became activities increasingly performed, regulated and largely controlled by state actors and institutions. To make sense of this brief discussion in relation to the current trend towards privatisation, there is a need to reflect more deeply on the different forms of non-state or commercial forms of violence and protection that have existed in the past, as well as changes in the nature of war and warfare and the development of state institutions connected to states' efforts to monopolise violence, such the military. Elaborating on these issues facilitates a more detailed treatment of state and non-state actors and institutions connected to the changing relationship between the state and violence. Tilly's framework serves here as a point of entry into discussions on non-state violence and state monopolisation, where the issue of state formation and change remains central.

## 5.2. Non-State<sup>36</sup> Violence and Protection in Early Modern Europe

On the opening page of *Mercenaries, Pirates and Sovereigns*, Thomson poses a number of pertinent questions: "Why do we have centralized bureaucracies – states – that claim a monopoly on violence? Why is this monopoly based on territorial boundaries? Why is coercion not an international market commodity?"

<sup>&</sup>lt;sup>36</sup> From a historical perspective, the term "non-state" violence is misleading. Firstly, the lines between state and non-state realms have varied over time and are hard to pinpoint (e.g. Lane 1979: 39; Spruyt 1994: 15f). Secondly, if the issue of state vs. non-state violence is approached uncritically from a modern, backward-looking perspective, we run the risk of teleology, thinking of the modern state and its claim to monopolise violence as the norm and end-goal. In fact, and this is a crucial point to make again, the state monopoly of violence is modern, and "non-state" forms of armed force has been, historically speaking, the norm rather than the exception to the rule (Thomson 1994: 41, 143ff; Tilly 1992: 31ff).

(Thomson 1994: 3). As we have seen, Tilly provides some basic tools for analysing and answering these questions in relation to state formation. However, in order to create a backdrop to subsequent enquiries into the recent trend towards security privatisation, some more observations on the actual forms, logics and consequences of non-state violence are needed here. While history is unlikely to repeat itself, it is useful to investigate structures and relationships of the past to gain insights into changes and recurring themes in our time. This section will focus on the period leading up to the nationalisation of armed forces beginning around the time of the French Revolution in 1789. The period of interest corresponds roughly to the transition from Tilly's age of brokerage in the 15th to 18th centuries, via the age of nationalisation in the 18th and early 19th century and on to the age of specialisation in the mid-nineteenth century. The idea is to point to some of the factors that shaped the change through which non-state violence and protection went from being the norm to being outdated, brought into disrepute and, in some cases, outlawed in the process resulting in an international system of states. This overview will also shed additional light on the monopolisation of violence and the consolidation of national states in the Westphalian period.

In the six centuries leading up to 1900, Thomson observes, "[n]onstate violence dominated the international system. Individuals and groups used their own means of violence in pursuit of their particular aims, whether honor and glory, wealth, or political power. People bought and sold military manpower like a commodity on the global market" (Thomson 1994: 3). In the words of economic historian Frederic C. Lane, there existed a "violence-using, violence-controlling industry" and central powers frequently contracted out much of their violence-related activities to "protection-producing enterprises" (Lane 1979: 51ff). Thus, during long periods of time before the advent of citizen armies, the practice of hiring armed force to wage war and provide protection was widespread and, to a large degree, accepted (e.g. Mockler 1969; Thomson 1994; Percy 2007a). Yet as Spruyt has pointed out, the establishment of a system of states eventually led to a "recategorization of who was entitled to exercise the means of violence" (Spruyt 1994: 15). In other words, the growth of states and the creation of national standing armies ultimately meant that the systematic use of hired soldiers that had long been a prominent feature of war and warfare went out of style and was largely, though not altogether, abandoned. A central question is of course how the system transformed into one where the main instruments of violence and coercion as well as the authorisation of their deployment in war and peace became - not only in theory but also to a large extent in practice - controlled and institutionalised by states? To be able to probe this question further, we need first to turn to the political and economic logic of non-state violence in the past and some of the main actors and structure creating supply and demand for non-state violence and protection.

#### 5.2.1. Mercenaries, Privateers and Mercantile Companies

Writing in 16<sup>th</sup> century Italy, Machiavelli issued a stern warning to rulers who relied heavily on mercenary forces for their protection and war-fighting:

Mercenaries and auxiliaries are useless and dangerous. If a prince bases the defence of his state on mercenaries he will never achieve stability or security. For mercenaries are disunited, thirsty for power, undisciplined, and disloyal; they are brave among their friends and cowards before the enemy; they have no fear of God, they do not keep faith with their fellow men; they avoid defeat just so long as they avoid battle; in peacetime, you are despoiled by them, and in wartime by the enemy. (Machiavelli 1999 [1531/32]: 39)

A short survey of history is enough to suggest that few rulers in Machiavelli's own time heeded his warning about hiring foreign troops. In fact, the history of mercenaries goes back at least to ancient Egypt and Mesopotamia and mercenary forces were widely used in wars in and outside Europe from the fifteenth to the seventeenth century (Howard 2001: 20-37; Thomson 1994: 26-32, 54-59; Mockler 1969). During and after the Hundred Years' War, which ended in 1453, bands of warriors were employed as mercenaries by persons commissioned by monarchs or the church In Renaissance Italy, rulers of city states hired professional military commanders and gave them a contract (the condotta) to conduct a given campaign. These condottieri were, in effect, military contractors, serving different employers at different times (Mockler 1969: 27ff, Ch. 3; Howard 2001: 25ff). During the sixteenth century, historian of war Michael Howard has written:

Whatever the rationale of wars during this period, whether disputes over inheritance or, as they became during the latter part of the sixteenth century, conflicts of religious belief, they were carried on by a largely international class of contractors on a purely commercial basis. (Howard 2001: 24)

Without making too much out of Howard's observation, it is interesting to note that while they do not normally engage in the actual fighting, many tasks related to today's violent conflicts are frequently carried out by a similar, often international, class or group of private contractors. Taking a step back, the widespread use of mercenaries in the sixteenth and seventeenth centuries meant that for some, war was indeed a lucrative business and the practice gave rise to some particularly wealthy and powerful military entrepreneurs. For example, by 1625, Albrecht von Wallenstein ran a large domain of 2,000 square miles<sup>37</sup> and used it as a supply base for his private army of as many as 100,000 soldiers which he, as a military contractor, deployed on behalf of the Holy Roman Emperor and the Habsburgs (Giddens 1987: 109f; Tilly 1992: 80f; Percy 2007a: 87ff). While larger states tried

 $<sup>^{37}</sup>$  1 sq mile = 259 hectares/2.59 sq kilometres; 2,000 sq miles = 518,000 hectares.

to limit their dependence on mercenary forces, many smaller states signed on entire bands of soldiers and sometimes even whole armies (Lynn 1996: 516f). In economic terms, the practice of enlisting in and recruiting for a foreign army – what Thomson (1994: 27) has called mercenarism<sup>38</sup> – reached unprecedented proportions in the seventeenth century. During the Thirty Years' War, the use of mercenaries was sometimes massive. For instance, at the time of his death in 1632, the army of Swedish king Gustavus Adolphus consisted of less than 10 per cent Swedish soldiers. The practice of mercenarism continued in the eighteenth century when, at times, the armies of major European powers (e.g. Prussia, Britain, Spain and France) consisted of over 60 percent foreign troops (Thomson 1994: 29f; Howard 2001: 58).

In an effort to summarise different uses and types of mercenaries in history, James Larry Taulbee (1998: 149) offers eight varieties that indicate some core differences as well as important links between the past and the present:

- 1) Soldiers hired to augment fighters: medieval European towns;
- Mercenaries with special individual skills (cavalry, bowmen, slingers, etc.) hired to augment citizen soldiers: fifth century Greece; pilots in contemporary conflicts, special weapons and tactics specialists, trainers;
- 3) Mercenary army, "citizen/native" commander: post-fifth century BC Carthage, Persian Empire, Syracuse under the tyrants;
- 4) Legions: identifiable regular units recruited on an individual basis such as the Roman auxilia, the Gurkhas, and the Spanish and French Foreign Legions;
- 5) National legions: fourth century BC Spartans, the Swiss, the Hessians;
- 6) Professional Commander, citizen/mercenary army: fourth century Athens, late Roman Empire, early modern Europe;
- Free companies mercenary commander, mercenary army: Xenophon's Ten Thousand, the free companies and condottieri, the nineteenth century filibusters, 5 Commando and the Leopard Battalion (Congo);
- 8) Personal bodyguards/private armies

Certainly, these are not mutually exclusive categories, but rather a broad illustration of basic patterns. Over time, the use of mercenaries has been both prolific and, as

<sup>&</sup>lt;sup>38</sup> Another, more specific definition of mercenarism is provided by Abdel-Fatau Musah and J. 'Kayode Fayemi, who define it as "the practice of professional soldiers freelancing their labour and skills to a party in foreign conflicts for fees higher and above those of native counterparts" (Musah and Fayemi 2000: 16). This lends some additional clarity to the concept, although it still hinges on determining the level of pay given to these soldiers and thus rules out any case where soldiers are hired for less money than the national forces – one of the main incentives, perhaps, for recruiting mercenaries in the first place.

Taulbee's overview clearly indicates, versatile. Certainly, many would disagree with the parallels drawn between historical and present-day actors under the mercenary heading. Yet the force of Taulbee's argument is not in its use of labels, but rather in showing the persistent relevance of non-state violence and protection over time.

Although mercenaries as in individual soldiers of fortune are probably the most well-known representations of the practice of hiring non-state violence, they were not, as Taulbee's list indicates, the only actors on the past "market" for non-state violence and protection. Privateers – described by Tilly (1992: 82) as "licensed non-governmental forces" - were mainly naval vessels, belonging to private owners who were licensed or commissioned by governments or rulers to carry out military operations on their behalf. Thus, privateering was essentially a "government program" (Tabarrok 2007: 572). The use of privateers, beginning already in the 13th century, became a widespread wartime practice in seventeenthcentury sea warfare and reached a peak in the 18th century. Privateers – such as the Elizabethan Sea Dogs of the 16<sup>th</sup> century – were used by major European powers in their competition for colonies and trade routes and they played central parts in the wars of the eighteenth century. States did not pay privateers directly, but allowed them to retain some or all the prizes they seized from the vessels or cities they attacked, or to keep the ransom paid for captured prisoners (Thomson 1994: 22-26, 41, 69ff; also Harding 1999; Tabarrok 2007).

As with privateers, mercantile companies such as the Dutch or English East India Companies were important actors in establishing and maintaining trade routes and colonies in the sixteenth, seventeenth and eighteenth centuries. One important characteristic of mercantile companies make them especially interesting here. As a rule, they were given what far-reaching powers; they had a monopoly of trade with a given region, they could raise an army or a navy, they could make treaties and they could make war. The companies were frequently engaged in war with colonies or with each other and sometimes hired mercenaries and pirates but also, as in the case of the English East India Company, created their own regular military force (Thomson 1994: 33ff, 38-40; also Kinsey 2006: 38ff; Ortiz 2007). As Thomson concludes, mercantile companies "were state-created institutions that used violence in the pursuit of economic gain and political power for both the state and nonstate actors" and with them "today's theoretical and practical distinctions – between the economic and political and between state and nonstate actors – were meaningless" (Thomson 1994: 41).

To sum up the discussion so far, it is clear that until late in the age of nationalisation, there were no such things as state monopolies of violence in the modern sense of the term. On the contrary, essentially non-state forms of violence and protection dominated the system. As a consequence, the lines between civilian and military, domestic and international, and state and non-state were often blurred at best. Given this situation, what was the logic of this sometimes massive use of non-

state violence, and how and why did it end? While it is clearly beyond this thesis to provide satisfactory answers to these questions, pushing the discussion a bit further is of great importance because it will make it possible to point to several factors that supported the use of non-state actors as well as some of the causes behind the demise of this practice on a large scale. In turn, these insights lend some clarity to the discussion about the state's endeavour to monopolise the major instruments of violence.

#### 5.2.2. The Logic, Consequences and Decrease of Nonstate Violence

Robert Gilpin has observed how the "fiscal crisis of feudalism ... was produced by the disjuncture between the ever-mounting cost of government, especially warfare, and the inadequate tax base of feudal government" (Gilpin 1981: 118). Expensive technological advances made war vastly expensive enterprises and the "fragmented, inefficient feudal form of economy ... was unable to generate sufficient revenues to pay for the new modes of military power" (ibid: 119). Also, the feudal military system was essentially defensive and based on a limited capability for mobilisation of duty-bound Knights, especially for service abroad (Lynn 1996; Howard 2001: 17ff; also van Creveld 1999: 52; Mockler 1969: Ch. 2). In a period of state expansion and fierce competition for land, trade and resources, states and rulers turned frequently to non-state actors for protection, extraction and military personnel. One reason for this was the rulers' lack of revenue and so, by authorising "individuals and groups to exercise political power and violence", Thomson explains, "rulers avoided the expense associated with some foreign ventures" (Thomson 1994: 21). In the process, "large profits were made in early modern times by the suppliers from whom princes bought military services, by the military entrepreneurs who undertook to recruit, organize, finance, and perhaps command bodies of soldiers" (Lane 1979: 55). Examples include individual contractors or condottiere, some of whom made great fortunes from their campaigns, mercantile companies, but also entire countries, such as Switzerland, that specialised in hiring mercenaries to other states and rulers (Mockler 1969: Ch. 4; also Tilly 1992: 80; Lane 1979: 22ff; Howard 2001: 27f).

For individual states (or states in the making), hired armies and mercenary units provided quick access to trained forces that could be raised on short notice and dismissed when they were no longer needed (Lynn 1996). Hence, from a functional perspective, the reliance on non-state violence made sense – at least in theory. States and rulers could decrease the strain on their economies by lowering the costs of protection for themselves, but also through increasing the costs of protection for competitors (Lane 1979: 12ff, 22-36, 50-65). One way of doing this was to utilize non-state forms of violence and protection to secure or gain trade routes and territories and to interrupt businesses and activities of

potential competitors. The system of using non-state enterprises became even more efficient with the advent of the policy of "plausible deniability" in the early seventeenth century. Through the establishment of this policy, "nonstate violence could be given a wink and a nod, thereby allowing the state to claim a share in successful efforts or to deny responsibility for endeavours producing negative consequences" (Thomson 1994: 43f). However, this also meant that to some extent, "neither states nor people could be certain of which practices were backed by state authority and which were not" (ibid: 44). This was one, but certainly not the only problem created by the willingness of states and rulers to rely on non-state violence in the early modern period.

By 1900, Thomson observes, violence had ceased to be an international commodity and control (and ownership) of violence was increasingly taken over by the state (ibid: 19). How and why did this change come about? Again, while the question is pertinent, there is no simple and straightforward answer. There are different explanations to the transition from non-state forces to the citizen armies of the nineteenth century and the issue continues to form a subject of debate (see e.g. Avant 2000; Thomson 1994; Percy 2007a). Before moving on to a brief review of some of the factors that shaped this transition, it is important to stress that the change away from non-state forms of violence such as the mercenary system was not obvious; indeed, as Tilly has observed, given "the general move toward monetization and commodification, the disappearance of mercenary armed forces comes as a surprise" (Tilly 1992: 83). Even so, substantial changes in state-violence relationships did take place and several interrelated factors played a part in the general weakening of non-state violence and protection in the periods of nationalisation and specialisation.

There are at least four different explanations as to the shift away from non-state violence. While a brief resume cannot claim to explain these theories in full, it will point to some of the main points. The first explanation is realist and functionalist, pointing to material changes and changes in the nature of war that made states abandon the use of non-state violence, mainly for strategic or security reasons. The second explanation is more sociological and places changes in prevailing international ideas on state identity, citizen-state relationships and increasing state responsibilities under international law at the forefront. The third argues that domestic conditions and the influence of Enlightenment ideas (e.g. civilian service) in key states shaped the transition. According to this explanation, exogenous shocks (e.g. defeat in war) together with domestic conditions determined whether powerful states would reform and adopt citizen armies. Once successful reforms had been made in some key states, the citizen army (through path dependence) became the model for other countries. The final explanation is norms-based and emphasises the increasing importance of pre-existing norms against the use of mercenary forces. These norms became all the more important with the development of state-citizen relationships in the period of nationalisation. As the

concepts of citizen duty to the state, nationalism and patriotism took hold, the use of mercenaries became morally undesirable because they did not fight for an appropriate cause (for a review of these explanations, their merits and problems, see Avant 2000: 41-48, 66ff; Percy 2007a: Ch. 4-5).

The aim here is not to decide which of the four alternatives provides the most plausible explanation. Essentially, while none of the explanations cover all aspects of the transition, each of them contributes important parts of the answer. The point is that the question of why the practice of using non-state violence diminished and largely fell into disrepute is complex and dependant on several interacting changes on different levels of the international system. For instance, a closer look at some of the consequences of non-state violence reveals that these practices produced a number of unintended and presumably unwanted outcomes that contributed to the shift towards increasing state control. This is important because it suggests that the shifting relationship between the state and violence that was such an important part of state formation processes was multifaceted and disorganised. As Tilly has pointed out, the creation of consolidated states with a high degree of control over the instruments of violence and coercion cannot be assumed to be simply the result of deliberate efforts and confident social engineering on part of kings and rulers (Tilly 1992: 11, 25ff). Returning to the change towards increasing state control, the following paragraphs will briefly outline some of the problems associated with the use of non-state violence that are significant to addressing questions of how and why these practices were largely abandoned and what this meant for the gradual shifts in state-violence relationships in the periods of nationalisation and specialisation.

In Thomson's analysis of non-state violence in early modern history, a key point is that even if these practices – at least superficially – were useful for realising political, territorial and economic ambitions of rulers and states, they were also very problematic and generated a number of unintended consequences. The increasing dependence on non-state violence threatened to through the system into chaos: "Privateering generated organized piracy. Mercenaries threatened to drag their home states into other states' wars. Mercantile companies turned their guns on each other and even on their home states" (Thomson 1994: 43). In Thomson's view, one important reason for these problems was the state's inability (and/or unwillingness) to control those who were authorised to use violence on its behalf. The paradox behind this situation was that increasing control over the activities and profits of non-state actors would risk jeopardise their willingness to undertake certain tasks. Thus, to keep the system functioning, few constraints were placed on non-state violence, which in turn generated problems for and threats to the state (ibid.). What was the nature of these problems?

In the case of mercenaries, they were – just as Machiavelli had warned in the early 16<sup>th</sup> century – often disloyal to their temporary paymasters.<sup>39</sup> In fact, the mercenary system had many weaknesses; one was that the bond between mercenaries and their employers were mainly contractual. Thus, as Lynn points out, contracted troops "felt little allegiance to the ruler they fought for beyond the obligation to give service for pay" (Lynn 1996: 517). Consequently, when pay came slowly or not at all, mutiny, plunder, pillage and desertions frequently followed (ibid; van Creveld 1999: 158f; Howard 2001: 28f; Tilly 1992: 82f). Related to this problem is the fact that even when they were subjected to control, for instance via interstate agreements, mercenaries were still largely self-motivated rather than motivated by a "cause". Hence, Percy argues, attempts to bring them under state control was both a way of dealing with practical problems such as plunder and desertion, but increasingly also a way of trying to make them adopt (what was seen as) morally defensible causes for which to fight (Percy 2007a: 78f, 120ff). Thus, states eventually sought to avoid their reliance on mercenaries partly because they "did not share the state's cause for war" and because "this improper motivation would undermine the state and lead to ineffective action on the battlefield" (ibid: 93). Finally, increasing state responsibilities for their citizens, for instance through the development of the concept of neutrality in the eighteenth century, made the use of mercenaries problematic. This was so because states that did supply mercenaries ran the risk of being held accountable for the actions of their citizens if belligerents rejected their claim to neutrality – something which could ultimately draw them into war (Thomson 1994: 55ff). Mercenaries largely disappeared with developing neutrality laws and national laws against enlistment in and recruitment for foreign armies from the late 18th century onwards (ibid: 77-86; Percy 2007a: 167ff). Yet the "disappearance" of non-state actors such as mercenaries should not be overstated. As several observers have pointed out, individual and ad hoc groups of mercenaries have continued to turn up in and around almost all violent conflicts throughout modern times. Yet it was not until the 1960s and 70s that the use of mercenaries returned on a large scale, particularly in the decolonisation period and in the wars and military coups in countries such as Yemen, Congo, Angola, Nigeria/Biafra and the Seychelles, to name a few (see e.g. Mockler 1987 and 2006; Forsyth 1969; Arnold 1999; Jones 2004; Kinsey 2006: 43-57).

<sup>&</sup>lt;sup>39</sup> It should be pointed out that Machiavelli's observations on the use of mercenaries has been criticised for being exaggerated and for being largely incompatible with much of the history of the condottieri in fifteenth century Italy. In addition, it seems as if the issues of disloyalty and thirst for power were at least equally relevant in relation to the employers as to the mercenaries themselves (Mockler 1969: 47ff). In a larger context, however, Machiavelli's normative characterisation can be seen as an indication of the moral apprehension towards mercenaries that did exist during and particularly after the Renaissance (Percy 2007a: 76f). Also, Machiavelli's description of mercenaries is clearly in line with much later images of mercenaries as soldiers of fortune, the dogs of war or even "human vermin" (Mockler 1974: 37).

At the heart of the problems created by the practice of privateering lay the issue of piracy. History contains numerous examples of privateers becoming pirates and perhaps even more occasions where the status of a particular group as either pirates or privateers was disputed by those affected by or benefiting from their actions. With the practice of privateering, the indistinct lines between state and non-state, and between peace and war, were revealed as highly problematic, and cyclical:

The state would authorize privateering, which was legalized piracy, during wartime. When the war concluded, thousands of seamen were left with no more appealing alternative than piracy. The state would make some desultory efforts to suppress the pirates, who would simply move somewhere else. With the outbreak of the next war, the state would offer blanket pardons to pirates who would agree to serve as privateers, and the process would start all over again. (Thomson 1994: 54)

In effect, privateers-turned-pirates posed direct threats to European states and their efforts to consolidate power. Moreover, groups with considerable means of violence at their disposal, with unclear ties to one or several states or authorities and who controlled (sometimes substantial) territories in the 17<sup>th</sup> and 18<sup>th</sup> centuries also made the issue of state authority over these territories highly problematic. As a result of these problems, and because of decreasing economic incentives to use privateers as states (and their navies) grew stronger, privateering was eventually outlawed internationally in the Declaration of Paris, an attachment to the 1856 Treaty of Paris on maritime law in war. By 1858, 42 of the 46 maritime powers invited to sign the Declaration had done so (Thomson 1994: 70f, 75; Tabarrok 2007).<sup>40</sup>

As was mentioned above, the mercantile companies of the 17<sup>th</sup> and 18<sup>th</sup> centuries were granted extensive powers by their home states. Although this practice generated trade and colonies and thus economic returns for the state, it is also clear that authorising these companies to exercise violence was not without problems. Companies frequently went to war with each other, with or without their home state's consent, and even attacked their home states or their own employees when

<sup>&</sup>lt;sup>40</sup> An interesting phenomenon that also deserves mentioning here is the rise of filibusters in early nineteenth century America. These were individuals "who launched military expeditions from U.S. territory, usually against neighboring states" to bring new territory into the United States or to form new republics or even new states (Thomson 1994: 118). On several occasions, filibusters were led or supported by official agents of the U.S. central state. One of the most famous filibusters, William Walker, invaded Mexico in 1854 to form the new Independent Republic of Lower California. The expedition failed, Walker was arrested, tried and acquitted. Later, in 1856, Walker overthrew the government of Nicaragua, made himself president and managed, by the help of the U.S. government, to hold the government for over a year before being thrown out (ibid: 118-142; Karlsson 1996: 33-35).

it served their purposes. However, granting the companies far-reaching powers also placed them above the law and largely beyond the reach of the state. The companies, far from just bringing income to the state, created problems as they engaged in piracy, extortion and war in contradiction of domestic policies and international laws (Thomson 1994: 59ff). Mercantile companies were never banned in the same fashion as privateers; no international law was created to strip them of their powers. Instead, the big companies in Europe commonly followed one of three routes: they went bankrupt (as in the case of the French Companies), were taken over by the state (as in the case of the English East India Company) or they were, like the Hudson Bay Company, turned into purely economic corporations (ibid: 97-105). In sum, the practice of using non-state violence generated a number of unintended and unwanted consequences related to state-building and interstate relations. Although the outcome of these problems differed, as did the efforts to resolve them, the trend towards increasing state control and a corresponding decrease of non-state violence was set in motion in the seventeenth and accelerated in the eighteenth century.

#### 5.3. The Monopolisation of Violence

In the previous section, the focus was on the use of non-state violence during a period in history when national states in Europe were still in the making. These practices were useful tools for states and rulers, but at the same time, they also resulted in a number of unintended and sometimes highly problematic consequences. The authorisation of non-state violence became the norm for several centuries in Europe partly because it furnished rulers and states with means to overcome some of the limits of the feudal economic and military system. Mercenaries, military entrepreneurs, private armies, mercantile companies and privateers served many purposes in the (often violent) competition for territory and resources, but each institution also produced problems of authority, responsibility and security for individual states and in the relations between states. The problems related to these practices lead back to a central question: how did the monopolisation of violence evolve and what changes took place that eventually lead to the predominance of national states with a much higher level of control over the instruments of violence? We know that in the Westphalian era, the use of non-state violence and protection went from being the norm to being outdated and even outlawed in a process resulting in the creation of an international system of national states, but this is only part of the story.

From the brief historical overview of non-state violence above it becomes quite clear that the age of brokerage (roughly 1400-1700) was the "heyday of military entrepreneurs and mercenary troops in the hire of civilian powerholders" (Tilly 1992: 122). In Europe, it was the Thirty Years' War that signalled both the climax and the beginning of the end of the system of heavy reliance on non-state violence.

The war, according to van Creveld, "soon degenerated into a free-for-all in which Emperor, kings, territorial rulers of various ranks, religious leagues, free cities, and commissioned and noncommissioned military entrepreneurs ... fought each other with every means at their disposal" (van Creveld 1999: 159-160). When the war ended with the signing of the Treaty of Westphalia in 1648, the state was affirmed as the "unchallenged guarantor of domestic order and legitimiser of external war" (Howard 2002: 16). The age of brokerage thus gave way to the age of nationalisation and the subsequent "incorporation of the military structure into the state with the creation of standing armies" (Tilly 1992: 122). Certainly, this dramatic change was not uniform, nor did it come about over night, but still, the Peace of 1648 is widely seen in the International Relations literature as the starting-point for the modern international system; a Westphalian order in which the state became the predominant form of social organisation (e.g. Watson 1992: 182-196; Falk 2002). In this process, states – albeit in very different ways – managed to deprive the civilian population and other organisations of access to coercive means while at the same time accumulating and concentrating massive coercive means of their own. State control over the principal means of coercion domestically and internationally facilitated the creation of more durable state structures and meant that the line between internal and external was made more distinct and more important.

Again, it is important to stress the irregular character of this process in order to escape the kind of oversimplification and determinism "in which the outcome of state formation seems to explain its entire course" (Tilly 1992: 33; also Spruyt 1994: 18-33). Different types of states – shaped both by internal relations between groups and by relations to other states - followed divergent paths to higher levels of concentration of and control over the means of coercion. Disarming the civilian population took time, occurred in many small steps and, again, did not seem to be part of a great scheme or plan for state building (Tilly 1992: 68ff; Spruyt 1994: 169). Eventually, the disarming of civilians made it possible for states to monitor and control the means and use of violence in society.<sup>41</sup> Conversely, Thomson observes how the authorisation of non-state violence was eliminated in an "ad hoc, piecemeal fashion" and that there was no "generalized assault on nonstate violence per se, much less a single method for ending those practices" (Thomson 1994: 105). Thus, these practices were abandoned chiefly because they provoked problems and conflicts and not merely because the state's right to authorise non-state violence was put in question.

The process of monopolisation was also shaped by changes in the nature of war and warfare and the creation of standing armies. In the seventeenth century,

<sup>&</sup>lt;sup>41</sup> Of course, there were differences in the extent to which civilians were deprived of their old rights to bear arms. For example, the United States is an exception in this context, since the rights of its citizens to bear arms is protected in the US Constitution (Tilly 1992: 69).

war had become an exceedingly expensive affair, demanding ever increasing access to resources and new technologies. The pressure on war-making states to extract the means of war – both in terms of manpower and finances – increased dramatically. As states struggled to raise armed forces – increasingly drawn from their own populations – its coercive powers began to overshadow that of any domestic rival (van Creveld 1999: 155-170; also Finer 1975). The process of creating armed force also generated durable state structures because "an army became a significant organization within the state and because its construction and maintenance brought complementary organizations - treasuries, supply services, mechanisms for conscription, tax bureaux, and much more – into life" (Tilly 1992: 70; see also Paret 1992: 10-16). The task of fitting out armies and navies resulted in an expanded state apparatus and a greater concentration of coercive means in the hands of the state, but it also resulted in a number of more or less unintended outcomes: "as rulers created organizations either to make war or to draw the requisites of war from the subject population ... they discovered that the organizations themselves developed interests, rights, perquisites, needs and demands" (Tilly 1992: 117). Not only the bureaucracy took on a life of its own - citizens were increasingly able to bargain with the state in exchange for their services (ibid: 99-103). Changes also took place at the level of the state. The massive efforts towards militarization also led to a civilianization of government, mainly due to growing non-military expenditures and non-military production (ibid: 122ff). Finally, the nature of war (and the state) was changing at the time of the Peace of Westphalia: "By this time the entire structure of war, which had hitherto been waged for personal reasons, was beginning to change in the direction of the impersonal state" (van Creveld 1999: 160). As wars demanded greater resources form the state, the system of indirect rule that dominated until the mid-eighteenth century proved inefficient and costly and "ever more rulers bypassed, suppressed, or co-opted old intermediaries and reached directly into communities and households to seize the wherewithal of war" (Tilly 1992: 104).

Thus we find that from the end of the Thirty Years' War and onward, a number of changes lead to the creation of something resembling state monopolies of violence both internally and externally (terms which only gained meaning in this period). Changes in the ways in which wars were fought, by whom and with what means were decisive for state formation and for the development of a state monopoly of violence. Following Elias, it can be argued that the development of more specialised divisions of functions and the creation of enduring state apparatuses made possible the development of monopolies of both violence and extraction (Elias 2000: 268-277; also Giddens 1987: 120f). In Europe, Tilly concludes "only those counties that combined significant sources of capital with substantial populations yielding large domestic military forces did well in the new European style of warfare. These countries were, or became, national states" (Tilly 1992: 183).

To summarise, different forms of non-state violence became outdated or even outlawed in the transition from the age of brokerage to the era of nationalisation and specialisation. Moreover, reviewing some of the connections between changes in intra- and interstate relationships and the instruments of coercion reveal a complex interplay between changes in warfare and the formation of national states in Europe. From this short review, it becomes quite clear that there is no simple explanation to the monopolisation of violence. On the contrary, it seems as if many aspects of this monopolisation (and thus the formation of national states) were by-products or unintended consequences in an intricate web of events and developments where causal relationships are hard to pinpoint (Tilly 1975b: 633). While this section cannot claim to have done full justice to the theories and studies it has been relying on, it has nevertheless pointed to a number of factors and changes in history that have been central to the formation of the modern state that Weber was referring to in his early twentieth century description. Also, it has been shown that in a broad perspective, the state's "monopoly" of violence is indeed, as Singer rightly points out, "a historical anomaly" (Singer 2003: 39). In order to make this analysis even more relevant to the study of an ongoing privatisation of security and violence, we need to dwell upon the state's major coercive institution, i.e. the military, and the development of war and warfare. Through this investigation, a more comprehensive picture of historical developments and theoretical concepts will be produced and used for further analysis of the modern state, its relation to violence and the system of states and, finally, to the changes that are taking place in the post-Cold War era.

#### 5.3.1. The Creation of National Standing Armies

In this section, the focus will initially be on the emergence of national standing armies in the age of nationalisation and the incorporation of the military into the state structure. The discussion will then move on to review central changes in the ways wars were fought and how the military, as a coercive institution, developed and was utilized. Here, the emphasis is on changes in the period around the French Revolution and the Napoleonic Wars (1789-1815), eventually leading up to a theoretical discussion of "Clausewitzian war". Basically, this section aims to address central aspects of the emerging relationship between the state and major instruments of violence at a time when national states were only beginning to prosper in Europe. This will feed into earlier discussions about the monopolisation of violence and the process of state formation. Also, looking specifically at the changing organisation of military means, the transformation of war and the state will offer additional insights into the context in which perspectives and theories such as Clausewitz's were launched. In addition, this section will yield at least a basic understanding of the "traditional" view of war and warfare, which will be used as a point of reference for subsequent discussions of the nature of postCold War armed conflicts. Taken together, this section will further the review of the monopolisation and institutionalisation of the major instruments of violence and it will provide a background to the subsequent analysis of states, their armed forces, and the privatisation of security.

In a broad perspective, national standing armies are fairly recent inventions. It was not until the end of the seventeenth century that "the standing army controlled by the crown, commanded by elites, its rank and file made up of men who enlisted for increasingly long periods of service - had become established throughout most of Europe" (Paret 1992: 53; also Lynn 1996; Avant 2000). Before proceeding, a word of caution is called for; the term "national" in this case should not be taken to imply that the soldiers were of the same nationality. Even towards the end of the 18th century, armed forces were essentially multinational and between one third and half of the troops of any European army were foreigners; wholly native armies are a product of the 19th century (Finer 1975: 101f, 146; Paret 1992: 54f). 42 Yet the troops that made up these emerging national armies were increasingly drawn from the subject populations, and armed forces gradually became permanent structures of states, regardless of whether they were at war or at peace. The creation of national standing armies contributed both to the increased power of the central authority to extract the means of war from their populations, but also to the growing ability of citizens to place demands on the state in exchange for their service and compliance. Thus the development of large and expensive standing armies was closely tied to both the consolidation of central control or power and, as a result of state's being forced to bargain with their citizenries, to the expansion of state activities (Finer 1975: 99ff; Paret 1992: 10ff; Tilly 1992: 82f, 96-126; Bobbitt 2003: 130f; also Clausewitz 1993 [1832]: 708-717).

In the mid-eighteenth century, during the period of nationalisation, the era of the *condottiere* was over and tasks such as recruiting, enrolling, paying, training and promoting the troops were placed in the hands of emerging war ministries and military academies (van Creveld 1999: 160). The waging of war changed from being personal war waged by the ruler into "impersonal war conducted on behalf of the state" (ibid: 161). As rulers lost their ability to make war on their own behalf, and "something we vaguely call 'national interest' came to dominate states' involvement or non-involvement in wars" (Tilly 1992: 185).<sup>43</sup> In the course

<sup>&</sup>lt;sup>42</sup> The incorporation of foreigners into states' standing armies became a widespread routine in the 17<sup>th</sup> and 18<sup>th</sup> centuries. Contemporary remnants of this practice include the French Foreign Legion and the incorporation of Nepalese Gurkhas into the Indian or British armies (see e.g. Mockler 1969: Ch. 6; Thomson 1994: 28-29, 89-92).

<sup>&</sup>lt;sup>43</sup> The idea of a "national interest" is undeniably hard to define and pinpoint. Tilly, writing about the phase of nationalisation, has chosen to describe national interest as something which "synthesized the interests of the dominant classes, but compounded them with a much stronger drive to

of this development, the social stratification of the officer corps was also – albeit with great variation – transformed and increasingly, high social status as a prerequisite for commission as well as the possibility to purchase military rank gave way to a more open system in which nobility was gradually being replaced by professionalism. This process was slow and in some cases, such as Britain, the relation between social status or wealth and military rank remained an issue until the late nineteenth century (Paret 1992: 15f; Finer 1975: 157f; van Creveld 1999: 160; Huntington 1957: Ch. 2).

In the process of nationalising military power, the army became an integral part of the state structure but also clearly distinguishable from the ruler or the government. At the same time, soldiers were increasingly being seen as "licensed" servants of the state (i.e. not as mere hired thugs, criminals, robbers or pirates) and were separated from the rest of the population in several ways: visually through the increasing use of uniforms, physically by being stationed in barracks but also legally through the introduction of international legal categories applicable to, for example, the wounded and prisoners of war (van Creveld 1999: 161-164, 1991: 193; also Howard 2001: 54ff). The use of uniforms, Giddens suggests, "indicates to the civilian population the distinctiveness of the military figure as the specialist purveyor of the means of violence" (Giddens 1987: 230). In effect, this made it possible to distinguish "those who were licensed to fight [for a state] ... from those who were not" (van Creveld 1999: 163).

To reiterate, the nationalisation of the military was, as has been argued above, central to the consolidation of national states in Europe and to the idea of a state monopoly of violence. In theory and, to a large extent, in practice, armies gradually (although unevenly) became permanent and subordinate parts of the state bureaucracy – designed to fight other, similar forces – and soldiers became servants of the impersonal state, separated from the rest of the population (van Creveld 1991: 38). The importance of this discussion will become clearer as we consider some of the major changes in the nature of war and the character of the state around the time of the French Revolution and the Napoleonic wars. This will also serve as point of entry into a discussion of violence and war from a Clausewitzian perspective.

In the period of nationalisation after the end of the Thirty Years' War and throughout the seventeenth and eighteenth centuries, the size of the armies deployed by warmaking states increased markedly, creating ever greater demands

control contiguous territories and populations within Europe, as well as a fiercer competition for land outside of Europe" (Tilly 1992: 185). I will not plunge into the debate on the possible goals or meanings of national interest here. Suffice it to point out that the power to define this concept is

often contested and frequently a source of conflict within states – e.g. between the higher echelons within the military and the civilian government (see e.g. Finer 2006: 35ff).

for manpower and resources. Similarly, military technology developed rapidly and required increased funding as well as training (Finer 1975: 91f, 101-108; van Creveld 1991: 100f). In several ways, changes around the time of the French Revolution and the Napoleonic wars must be considered a watershed – both when it comes to the organisation of armed force, warfare and in terms of state formation and consolidation (Paret 1992: 17ff; Howard 2001: Ch. 5). Some changes that took place during this time are of particular interest to the present inquiry into the monopolisation of violence.

In Tilly's view, the period of French Revolution and Empire (1789-1815) was important because it forwarded the ongoing transition from indirect to direct rule in Europe "by providing a model of centralized government that other states emulated, and by imposing variants of that model wherever France conquered" (Tilly 1992: 107). The old practice of using intermediaries (e.g. clergy, landlords, urban oligarchies or professional warriors) was abandoned in favour of a system where the central power reached directly into communities and households for their extraction of resources (ibid: 103f, 107-114). This development was most likely connected to the "revolution in war" that took place around the end of the eighteenth century and whose major component was a great increase in the number of soldiers deployed for war. Other important changes in war and warfare in this period included ground-breaking innovations in infantry tactics, the use of field artillery and reorganisations of the units of the armies (Paret 1992: 16f). The deployment of gradually larger armies and the use of new technologies and organisations effectively meant that the nature of war, i.e. how it was fought, by whom and with what means, changed dramatically. Many states relied on coercive measures - such as various forms of conscription - to meet the increasing demands for manpower (ibid: 54-74; Finer 1975: 149f, 158f).

Changes in war and warfare continued to have an impact on state formation and the consolidation of central power. Higher demands for resources, technology and personnel in violent conflicts meant that wars were being fought on a larger scale than before, by more specialised persons who conducted their tasks on behalf of the state. Peter Paret concludes that the "most significant long-term effects that the revolution in war had on the forms that military power assumed in the course of the nineteenth century were the professionalization of military institutions and the growing importance of the concept that service in the armed forces was a duty the citizen owed to the larger political community" (Paret 1992: 17).<sup>44</sup> The sense of "duty" would perhaps sound out of place if we only considered the difficulties

<sup>&</sup>lt;sup>44</sup> Here, the rise of large national police forces could also be included as yet another sign of specialisation and institutionalisation of coercive measures in the hands of the state. Though the police is not the subject of discussion here, the development of police forces are of course also relevant to the discussion of the monopoly of violence or coercion, as is the development of judicial systems (see e.g. Bayley 1975; Paret 1992: 18; van Creveld 1999: 167-170).

of establishing motivations of persons to join the military. Nonetheless, Paret's point is pertinent when we consider the amplification of nationalistic ideals in Europe and elsewhere after 1789.

In the period of French Revolution and Empire, and especially during times of war, nationalism became a strong consolidating force (van Creveld 1999: 193-199). With the spread of ideas of "national peculiarity", war became a "homogenizing experience, as soldiers and sailors represented the entire nation and the civilian population endured common privations and responsibilities" (Finer 1975: 144; Tilly 1992: 116). Also, in the wake of Napoleon's aggressive bid for Empire in Europe, nationalism was incited among the peoples under French control and influence, partly because, as Howard comments, "[n]othing creates a sense of national identity so quickly as having foreign soldiers quartered on your village" (Howard 2002: 37). In sum, the spread of nationalism was important for furthering ideas of, for example, being French or English, and for establishing even clearer lines between "us" on the inside and "them" on the outside. Also, standing armies became closely tied to the idea of a nation and a national cause – an important development for the creation of an *esprit de corps* of modern armies (Finer 2006: 9ff; also Watson 1992: 231-237).

Taken together, this discussion shows some interesting developments in terms of the major instruments of violence and the consolidation of states. The creation of national standing armies, international laws of war and the changing nature of war and warfare created a division between the military and the civilian population and a professionalisation of the armed forces. With the rise of military professionalism came the idea that "war represented an art or a science in its own right which had to be exercised by specialists and them alone" (van Creveld 1991: 39). Furthermore, the development of the impersonal state, where war was no longer being fought on behalf the ruler but on behalf of the state, essentially meant that the military was separated from the person of the ruler. The state thus moved towards becoming "an impersonal, abstract entity that stands above and is distinct from both the government of the day and the governed" (Keane 2004: 59). Finally, the military (and thus the conduct of war) was made an integral part of the state bureaucracy, an organisation subordinated (at least in theory) to the state with considerable means of violence at its disposal. It was during this exceptional and very and turbulent period in European history that Carl von Clausewitz launched his highly influential theory of war.

<sup>&</sup>lt;sup>45</sup> The term nationalism is vastly complex and can be given a number of meanings. It is understood here simply as a psychological phenomenon; a feeling of community based on, for example, a common language or culture and as a homogenising force (see e.g. Giddens 1987: 116; Watson 1992: 192f; Tilly 1992: 116f; also Smith 1998: esp. Ch. 4).

#### 5.3.2. Clausewitz, the State and Violence

In *On War* (published in 1832), Clausewitz presented a theory of war that has continued to speak to a disparate audience for well over one hundred and fifty years. Even a fairly rudimentary survey of Clausewitz's main ideas suggests that he was indeed a "child of his age" but also, in some important respects, a portal figure for later thinking about war and the state (Brodie 1993a: 52). So, what relevance does Clausewitz's theory have for the present discussion about the monopolisation and nationalisation of armed force, changes in war and warfare and the consolidation states? How do we understand Clausewitz in the context outlined above and how can his theory further the discussion of the challenges to the idea of a monopoly of violence after the Cold War? Pointing to a few central elements in Clausewitz's thinking will produce some answers to these questions.

A short recapitulation of central points will make the connections to Clausewitz clearer. As argued above, changes in the period of nationalisation signalled the rise of national standing armies and substantial changes in war and warfare, both in terms of their scale and the methods used to fight them. This period also brought about increasingly clear divisions between the members of the armed forces, the (impersonal) state and the civilian population. In van Creveld's critical interpretation of Clausewitz, the levels of the army, the government and the people, as well as the interplay and divisions between these levels, are essential to understanding how war operates in Clausewitzian theory. The division of the major components of war in this way situates Clausewitz in the period after 1648, but we need to go deeper into his ideas and definitions to reveal the workings of what van Creveld has called "trinitarian war" and its relevance to the present study (van Creveld 1991: 25-41).

<sup>&</sup>lt;sup>46</sup> At this point, it is important to point out that van Creveld's understanding of Clausewitz's "paradoxical trinity" is not unambiguous (Clausewitz 1993: 101). The trinity was seen by Clausewitz as consisting of three major forces: "primordial violence, hatred and enmity"; "the play of chance and probability"; and "its element of subordination, as an instrument of policy" (ibid.). These forces are all present and need to be acknowledged to understand the "total phenomenon" of war (ibid.). The forces that made up the trinity, summarised by Paret as violence, chance and politics, were seen by Clausewitz as mainly connected to three different segments in society; violence with the people, chance with the army and its commander and politics with the level of the government (Paret 1991: 110f). These associations of Clausewitz's - on which van Creveld bases his interpretation of the trinity – have been criticised for being "highly subjective" and of "questionable validity" (ibid: 111). In turn, van Creveld has been criticised for making too much of Clausewitz's associations and thus missing important aspects of the trinity (Villacres & Bassford 1995). Still, van Creveld (and others with him) places the trinity of the people, the army and the government centre state in his analysis of Clausewitz in relation to modern war and warfare (van Creveld 1991; Kaldor 1999: 21). It is not my aim here to discuss the validity of his findings, nor to throw myself any deeper into the debate on Clausewitzian theory of war. Aware of the critique against it, I will use van Creveld's notion of the "trinity" to illustrate one way of looking at Clausewitz's ideas from a historical perspective with a retained focus on the changing relationship between the instruments of violence and the state.

Much can be learnt about the relevance of Clausewitz's theory by looking at his definition of war and its implications for theory. In Clausewitz's view, war, in its abstract and ideal form, is "an act of force to compel our enemy to do our will" (Clausewitz 1993: 83, emphasis in original). Physical force is the means of war and its goal is to impose our will on the enemy by destroying the enemy's force (ibid: 83, 102). Physical force, in this sense, has no "natural" boundaries and in the ideal version of absolute war, "there is no logical limit to the application of that force" (ibid: 85, my emphasis). In its ideal form (what Clausewitz called the pure concept of war or absolute war), war is an application of "absolute violence ending in the total destruction of one side by the other" (Paret 1992: 109; cf. Clausewitz 1993: 102). Thus, for Clausewitz, there are no logical, internal restraints or limits to the use of force when we speak of absolute war (Paret 1993: 23).<sup>47</sup>

Yet as we move from the abstract level to the real world, Clausewitz reminds us, "the whole thing looks quite different" (Clausewitz 1993: 87). In reality, wars do not exist in isolation and are always subjected to, and influenced by, forces external to it (ibid: 1993: 85; cf. Paret 1992: 108ff; Paret 1993: 23). Social, political, technological or economic forces influence war, and wars may be waged for limited political ends. Thus war has a dual nature, made up of the thesis of absolute war and the concept of limited war (Paret 1992: 109). In reality, the original motive to wage war is political, not military, and the political object determines the military objective to be reached and the amount of effort needed to reach it (ibid; Clausewitz 1993: 90, 728ff). It is in this context that Clausewitz formulates his oft-quoted dictum that war is "a continuation of political intercourse, carried on with other means" (Clausewitz 1993: 99). How should this statement be understood? Essentially, war is seen as an "expression of the state's political will" and hence it is rational that the "political leadership should ultimately control and direct the conduct of war" (Paret 1992: 168, 110; see also Clausewitz 1993: 731-737). Consequently, military means are considered subordinate to political ends (e.g. Howard 1993: 33; Brodie 1993b: 778; Huntington 1957: 55ff). Though violence is placed firmly at the heart of the Clausewitzian theory of war, it should nevertheless "express the political purpose, and express it in a rational, utilitarian manner; it should not take the place of the political purpose, nor obliterate it" (Paret 1992: 110). As Huntington points out in The Soldier and the State, Clausewitz was in fact one of the first thinkers to articulate a theoretical justification for civilian control over the military. Because war in the Clausewitzian sense is motivated by political goals that legitimise the use of force, the military means, i.e. the armed forces, are logically subordinated to political control (Huntington 1957: 57f).

<sup>&</sup>lt;sup>47</sup> In his treatment of war in the ideal or pure form, Clausewitz is influenced by German philosophers of the time (such as Kant and Hegel) and employs a metaphysical analysis of absolute war to create an ideal model against which the reality of war – in its many different guises – can be theoretically understood (Paret 1992: 108; Brodie 1993a: 52f; Brodie 1993b: 777).

Hence, in Clausewitz's (utilitarian) view, war is seen as an affair of state (or government), a "true political instrument" to be used in the pursuit of political goals (Clausewitz 1993: 99). If wars were made by states (as was increasingly the case after 1648), their instruments for the conduct of war consisted of armies with the explicit mission to fight wars on behalf of the state, mainly against the armies of other states (van Creveld 1991: 36ff). As we have seen, armies at the time were being separated from the government or the ruler and from the people, who were gradually disarmed and legally banned from resorting to violence in war (ibid: 39ff, 193; van Creveld 1999: 163ff). Essentially, the "trinitarian" structure of war (in van Creveld's interpretation) and the political nature of war situate the central elements of Clausewitzian theory firmly in a particular period in history.<sup>48</sup> In this context, most forms of non-state violence from previous eras had been rendered illegitimate or illegal and the state had to a large extent disarmed the civilian population and amassed large coercive means of its own. With increasingly sharp lines being drawn between the army, the people and the state, and with a strengthening of the connection between the conduct of war and the policy of the state, we are approaching a time in history when Weber's view of the modern state is finally beginning to make sense – at least in a European context (Tilly 1992: 69f).

Judging from the ideas put forth by Clausewitz, and especially his emphasis on the political nature of war and its subordination to political aims, the influence of his ideas – most notably in the realist tradition of international relations – comes as no surprise. His central postulates and ideas remain the subject of much scrutiny and criticism, not least in the work by scholars such as Martin van Creveld and Mary Kaldor who have both pointed to the seemingly limited application of a Clausewitzian analysis or understanding of war and warfare in the post-Cold War period and the emergence of a new or transformed version of war (Kaldor 1999; van Creveld 1991). In the next chapter, I shall have reason to return to the critique of Clausewitz to see how wars of the post-Cold War period have been interpreted as qualitatively different from "traditional" or "Clausewitzian" wars and how the privatisation of security in the context of armed conflict fits into these perceived changes.

To sum up, Clausewitz's thinking is linked to the emergence of a close connection between the major instruments of violence and the state. Pointing to the political

<sup>&</sup>lt;sup>48</sup> Certainly, Clausewitz was influenced by the Prussian experience of the late 18<sup>th</sup> and early 19<sup>th</sup> century, his own participation in war and central historical events such as the French Revolution and the Napoleonic Wars. It was in Napoleon Bonaparte that Clausewitz saw the "God of War" or the "juggernaut of war" and like many of his contemporaries, he was trying to understand the secret of Napoleon's successes (Clausewitz 1993: 706, 716; van Creveld 1991: 63). Moreover, it was during some of the Napoleonic campaigns that violence was unleashed on such a scale that it approached the level of absolute war or the pure concept of war (Howard 1993: 31f; Paret 1992: 109, 113).

character of war has been singled out as one of the "most significant and potentially most fruitful achievements" of Clausewitz's (Paret 1992: 168). As we have seen, large-scale instruments of violence and war, supposedly controlled by the state, are fairly recent phenomena. While Clausewitz analysed the political nature of war in a specific historical context, he did not dwell at length on the interplay between the army and the government or what we today would call civilmilitary relations. He did, however, point to the subordination of war and the military to the political leadership and thus, Clausewitz is said to have contributed a theoretical justification for civilian control. Yet it is clear that the creation of national standing armies and increasing state control was important to the process of state formation and consolidation. For instance, Tilly and his collaborators pointed to the "intimate connection between the conduct of war, the building of armies, the extension and regularization of taxes and the growth of the state apparatus" (Tilly 1975b: 633). In the process, the state secured control over the "principal means of coercion" and the use of large-scale violence (i.e. warfare) became regarded chiefly as an affair of state. The view of war as belonging to the realm of the state is not merely found in Clausewitz's theory; the notion of war as something that was waged by states was pervasive enough to be codified in international law (van Creveld 1991: 36ff; 193; cf. Detter 2000: 132ff, Ch. 5). Over time, the consolidation of central powers and the emergence of a European state system in the periods of nationalisation and specialisation brought about considerable changes in the organisation and application of physical force. In the move from the age of nationalisation to into the period of specialisation in the mid-nineteenth century, military force grew into a powerful, specialised and highly structured part of the state apparatus, separated as we have seen from the rest of society and with particular tasks to fulfil, both in times of war and peace. The creation of standing armies is an illustration of the state's increasing ability (and perceived need) to accumulate and concentrate coercive means under state control, bringing with it an expanding administrative role for the state. In the process, the relationship of the state to the increasingly professional military (i.e. civil-military relations in the modern sense of the term) evolved.

## 5.4. Conclusions

This chapter set out to place the theme of the relationship between the state and violence in a historical perspective. This was done by linking the discussion to state formation processes, to the use of non-state forms of violence and protection, and to the gradual decline of these practices as states sought to monopolise the means and use of violence. From the historian's perspective, it is easy to see that this chapter leaves much to be desired, especially in terms of empirical evidence or contextual descriptions. Yet the ambition was never to create another history of the state but to make a set of observations that feed into the question about

changes in the relationship between the state and violence over time. One central point is that critical or alternative readings of the history of state formation in Europe provides a powerful corrective to linear and deterministic accounts of the state as well as to analyses where the state and its monopolistic relationship to violence are presupposed. In a broad view, the organisation and application of organised violence has been shifting over the centuries and it seems reasonable to expect that changes in the instruments of violence and coercion will continue and that they will have an impact on state structures and institutions. Still, with the development of modern society and the establishment and consolidation of national states, the meanings of concepts such as the state, violence and war have often been interpreted as fixed and presented as "natural". However, as this chapter has shown, these meanings are not static. Recalling the quotes from Finer and Thomson that opened this chapter, the relationship between the state and violence has been, and presumably continues to be, characterised by change and fluctuation.

Even so, it has to be acknowledged that an increasing level of control and ownership of the means of violence and coercion in society has been of central importance to the rise to prominence of national states. Yet so have the practices of utilising non-state forms of violence and protection. The massive employment of mercenaries and privateers, and the granting of far-reaching coercive powers to mercantile companies all contributed a number of opportunities and advantages for states, not least from a functional perspective. At the same time, however, these practices also resulted in a number of problems that contributed to the decreasing usage of non-state violence from the late seventeenth century onwards. Nonstate actors frequently created both practical and political problems for states in the making and were increasingly seen not only as inferior to national armies, but also as morally problematic. As a result, the large-scale overt use of nonstate violence and protection diminished; instead, national standing armies were created and gradually developed into integral parts of state bureaucracies. At the same time, war and warfare became increasingly seen as the domain of states and their national armies. Yet it is only in the period after the French Revolution that there developed anything approaching substantial state monopolies of violence. Given the relative newness of this close relationship between the state and violence, together with the importance of non-state violence and protection in the past, the recent increase in the use of non-state security and military services comes as no surprise.

This is not to say that history is repeating itself and that what we have been witnessing in Iraq and elsewhere is an indication of the return of large mercenary armies in the service of state and non-state actors. The companies that are the focus of this investigation are not mercenaries in any traditional sense, nor are they military forces in their own right. However, the use of these companies on a large scale – such as in the case of Iraq – signals the potential re-legitimisation of non-

state violence and protection and related changes in state-violence relationships. Admittedly, the use of these companies seems difficult to reconcile with the idea(1) of a state monopoly of violence – at least if the demands for monopolistic control are taken literally (which has often been the case). Yet if we instead accept the argument that changes in the relationship between the state and the instruments and use of violence are recurrent themes in history and that state control – as Finer so pertinently observes – is a matter of degree, then the privatisation of security appears in a different light. In this perspective, the privatisation of security should be understood as a movement along a continuum of state control rather than as an erosion of the state as such. In relation to the history of state formation, such movement has often taken place in the other direction, i.e. towards greater state control. Using the terminology in Lundqvist's model of privatisation, we can see that over time, states have increasingly (though not completely) assumed responsibility and control of the production, regulation and financing of many violence- and security-related functions. The challenge now, then, is to probe the question of how and why the current move towards security privatisation – being to some extent a movement in the opposite direction – is taking place. Exploring this question will make it possible to point to linkages between past and present changes and processes and will help create a comprehensive backdrop to the analysis of security privatisation in the case of Iraq.

# 6. The Expansion of the Post-Cold War "Market for Force"

Given the durable nature of non-state forms of violence and protection throughout history, it is partly unsurprising to find what Kinsey has called a "revival of legitimate non-state violence" in the period after the Cold War (Kinsey 2006: 34). However, while it is central to acknowledge that the existence of a "market" for security and protective services is not a novel phenomenon per se, it is equally important to point out that the current development is not a simple repetition of the past. As we shall see, the development of the current market and related changes in the relationship between the state and violence take place in a specific historical context and has produced a number of actors and structures that are qualitatively different from what we have seen in the past. However, claims that actors such as PSCs represent "new phenomenon" of the so-called "new wars" miss important historical connotations of post-Cold War security privatisation and thus fail to explain how and why this development may in fact be seen as indicating the re-emergence of internationally accepted non-state forms of violence and protection (e.g. Kaldor 1999: 92). Admittedly, the rise of what Avant (2004) has termed the current "market for force" has been addressed in several previous studies, but there is still a need for new interpretations and perspectives to be added. This overview of the more recent history of security privatisation serves as a point of entry into the more particular developments in the case of Iraq and to questions of how and why the practice of using non-state security services in armed conflicts is once again being perceived in some quarters as both acceptable and legitimate. By retelling the story of the post-Cold War expansion of privatised security, this chapter will also establish a link between the history of state formation and monopolisation of violence, and the development of nonstate forms of violence and protection in the post-Cold War period. Hence, it will aim to shed additional light on the question on the shifting relationship between the state and violence in the past and at the present.

This chapter draws on – and is greatly indebted to – the groundbreaking work done by other researchers to explain the increase in supply and demand of security- and military-related services in recent decades. Basically, the following discussion will be structured around a few complex and highly interrelated themes and processes that have been identified as central factors explaining the development of the current market: the end of the Cold War, the privatisation wave, globalisation, the changing nature of war and warfare, and changes in security issues and structures. Certainly, these events and processes are very much open to different (and sometimes contradictory) readings; what this chapter contributes is but one possible interpretation. Importantly, while they are highly relevant to our understanding of contemporary security privatisation, the impact

of the events and processes discussed below should be treated with caution. Commenting on the events of September 11, 2001, Fred Halliday has argued that there are "two predictable, and nearly always mistaken, responses to any great international upheaval: one is to say that everything has changed; the other is to say that nothing has changed" (Halliday 2002: 235). Transferred to the present discussion, this means that while the impact of large-scale events such as the end of the Cold War on security privatisation needs to be acknowledged, such events are not necessarily decisive, nor do they automatically constitute fundamental breaking points in history. Put differently, arguments concerning the factors and processes that explain increasing security privatisation should not be accepted at face value.

#### 6.1. The End of the Cold War

As argued above, the current market for non-state forms of violence and protection is not an altogether novel phenomenon. Rather, it may be seen in part as a continuation and a re-emergence of practices that have existed – albeit in many different shapes and forms - throughout the centuries leading up to, and following, the rise to prominence of the modern state. Nevertheless, it is also true that from the nineteenth century and up until the end of the Cold War, the use of non-state actors such as mercenaries was largely de-legitimised in the international system (Thomson 1994; Percy 2007a). Despite increasingly unfavourable view of these actors – especially following the wars connected to the decolonisation process in Africa and elsewhere – this did not put an end to the use of mercenaries entirely, nor did it prevent the rise of pioneering PSCs such as Vinnell Corporation (1931), Watchguard (1967), Kroll (1972), Control Risks (1975) and Defence Systems Limited (1981). Even so, it was essentially the end of the Cold War that marked the recent acceleration of market expansion in terms of companies, services and prospective clients. The booming security industry of the 1990s and the increasing use of PSCs by powerful states such as the US and the UK in the context of armed conflict indicates a re-emergence of legitimate non-state violence and protection in the international system. So, how did these changes come about and why is the end of the Cold War considered fundamental to the current wave of security privatisation (e.g. Mandel 2001: 131; Singer 2003: 49)?

The fall of the Berlin wall in 1989 marked the beginning of the end of the Cold War standoff between the superpowers and signalled the onset of far-reaching changes in international political, military and economic relations. Since 1945, the logic of international order had, to a large extent, been shaped and influenced by superpower rivalry and by the threat of large-scale nuclear war between the two major military alliances. With the end of the Cold War came the end of bipolarity and superpower "overlay" that had been central features of international relations for over four decades (Buzan 2007: 181f; also Hogan 1992; Crockatt 1997; Held

et al. 1999: 99ff, 124ff).<sup>49</sup> While the long-term effects of these events and changes remain subject to speculation among scholars, there are circumstances that make the end of the Cold War central to the increasing privatisation of security in the past two decades.

In the wake of the events of the late 1980s and early 1990s, several changes occurred that influenced both the supply of, and demand for, private security and military services. On the supply side, one important development was the global downsizing of standing armies beginning in the late 1980s as governments sought to realise a "peace dividend" from the end of the Cold War (Nossal 1998: 30). According to *The Military Balance*, the global number of personnel in armed forces declined by more than 7 million between 1985 and 2001 (The Military Balance 2002: 337).<sup>50</sup> As a result, a large number of military personnel made redundant by the end of the Cold War became available on the market, creating a considerable supply of skilled manpower (Shearer 1998: 27f; O'Brien 1998: 81; Singer 2003: 53). In South Africa, for instance, the ending of the apartheid regime signalled a massive downsizing of the South African Defence Force in the early and mid 1990s, and a growing reliance domestically on private security companies. Ex-military personnel from South Africa also made up the management and leadership of the once notorious but now defunct (since January 1999) company Executive Outcomes (Reno 1998: 59ff; Howe 1998; Pech 1999; Mandel 2002: 118f). Yet another result of the dismantling of Cold War military structures was a massive increase in the availability of weapons on open and black markets - especially small arms from the former Soviet Union. After 1989, millions of light weapons became available to a large number of non-state actors including warlords, criminal outfits, rebel groups, militias and private military and security companies (Singer 2003: 54; also Small Arms Report 2002; UN doc. A/52/298).

At the same time, and partly as a result of diminishing superpower influence and support, a number of violent conflicts erupted, creating an increased demand for military expertise and personnel. A majority of these conflicts broke out in developing countries, where weak state structures and authority were sometimes

<sup>&</sup>lt;sup>49</sup> As with all major historical events, interpretations and analyses of the impact and ramifications of the end of the Cold War differ widely, even though most analysts agree that substantial changes in the international system were set in motion in late 1989. For some different analyses of the possible implications of the end of the Cold War, see Hogan (ed.) 1992.

<sup>&</sup>lt;sup>50</sup> The decline in the number of armed forces personnel between 1985 and 2001 was particularly evident within the NATO community and the former Soviet Union. The trend was not entirely global; in Sub-Saharan Africa, the number of troops actually increased from nearly 960 thousand in 1985 to 1.4 million in 2001. Also, while there appear to have been a sharp decrease in defence expenditure between 1985 and 2000, there are signs of increasing defence expenditure globally between 2000 and 2006 (*The Military Balance* 2002: 337, 2006: 403, and 2008: 448).

weakened further by the withdrawal of support from powerful states. With diminishing outside support due to the removal of Cold War security and military structures, many states experienced increasing challenges and threats from subnational groups, resulting in a number of violent conflicts taking place within states rather than between them. Between 1989 and 2006, 122 armed conflicts were registered in 80 locations, 115 of which were characterised as intrastate conflicts (Harbom and Wallensteen 2007: 624). Also, the total number of violent conflicts in the world increased during the early and mid 1990s; the 122 conflicts referred to above make up over 50 % of the total number of conflicts since World War II (ibid: 623). While the exact figures on the number of conflicts in the post-Cold War period may vary, the trend towards internal (i.e. not between states) is generally accepted (Miall et al. 1999: 28ff).<sup>51</sup>

In the face of the ill-fated and problem-ridden peacekeeping or peace-enforcing operations in Somalia, Bosnia and Rwanda in the early 1990s, it became increasingly clear that powerful states as well as international and regional organisations lacked the willingness and/or the ability to deal with many of the conflicts of this period (Doyle 1998; Kinsey 2006: 59ff; Mandel 2002: 56-61; Shearer 1998: 32ff; O'Brien 1998: 96ff). In this volatile environment of violent internal conflicts and weakened states – particularly in Africa – the use of private companies by state and non-state actors to provide security and military services in and around zones of violent conflict began to increase. Hence, it can be argued that the end of the Cold War produced a "security gap" or a security vacuum where a number of nonstate actors, including private security and military companies, managed to find a growing number of business opportunities (Singer 2003: 49; also Reno 1998: 45-77, 129ff; Lock 1999; Hutchful 2000: 218ff; Duffield 2001: 61-71). In addition, it created an environment of increasing demand for security services that state institutions and international organisations proved unable or unwilling to satisfy. Finally, the dismantling of Cold War structures resulted in an increase of former employees of armed forces and security services, many of whom found their way to the booming security industry.

That there has been a significant increase in the number of companies and persons operating in the global market for security- and military-related services is clear, although it is difficult to be more precise about the growth of this market after the end of the Cold War. Some figures estimate the combined US and international revenues for private security companies at \$55.6 billion in 1990 with projected revenues increasing to \$202 billion in 2010 – an annual growth of

<sup>&</sup>lt;sup>51</sup> The use of the terms "internal" or "intrastate" to classify violent conflicts is not unproblematic. While the actual fighting might take place within the borders of one specific state, many "internal" conflicts do, on closer inspection, contain important linkages to the regional and international levels (Brown 1996: 3-9, 23-26).

about 7 per cent (Vines 2000; also O'Brien 2000a; Securitas Annual Report 2006). Although these figures give an indication of the scale of the industry's growth, they should be treated with caution. As pointed out above, reliable quantitative data on the global security industry after the Cold War are in very short supply, and available estimates use different definitions of companies and services. Therefore, systematic comparisons between figures are difficult, and the figures cited here should be seen as nothing more than rough estimates. Even so, the growth of the global security industry has been substantial after – and partly as a result of – the end of the Cold War. Though undoubtedly significant for the acceleration of security privatisation, the end of the Cold War only provides one part of the complex chain of events and processes that together explain the increasing employment of private security companies in the international system. To make sense of this development, it must also be considered in relation to the spread of privatisation trends as well as issues of globalisation and changes in the nature of war and security.

#### 6.2. The Privatisation Wave

In the post-Cold War era, the zest for privatization has spread around the world like wildfire. [...] Most recently, even the area most tightly associated with government functioning – the provision of security for its citizenry – has fallen prey to the privatization tidal wave. (Mandel 2002: 1)

In *Armies without States*, Robert Mandel notes how the global trend towards privatisation has moved across the globe and across public sectors. Following Mandel, it can be argued that the privatisation of certain security and military functions to private companies represents the most extreme form of privatisation since these are functions that – at least in the modern period – have come to be associated more or less exclusively with states and state actors such as the police and the military. In theory, the privatisation of these supposedly "core" public functions and the resulting mix of public actors and private business corporations indicates a substantial shift in the role and function of the modern state (Bislev 2004: 599). While the ideal of the exclusive and inalienable position of the state in relation to security provision and the business of war does not (and never did) sit well with the empirical realities of these issues, it is also true that the notion of outsourcing some of these functions to private companies – particularly those associated with the military – would have appeared "preposterous" or even unthinkable in many quarters not so long ago (Singer 2003: 9).

Yet since the election of the Thatcher government in Britain in 1979, the selling of state enterprises and assets and the outsourcing of public functions to the private sector has increased globally and spread to ever more areas formerly associated

with the (welfare) state (Le Grand and Robinson 1984: 1ff; Donahue 1989: 3ff). Recalling Lundqvist's taxonomy outlined in Chapter 3, one might characterise this as the onset of privatisation processes in relation to the production, financing and regulation of services and activities. In essence, this move towards privatisation and the creation of a "contract state" has increased the role of the market and private companies in areas considered to be the domain of the state and state actors (Sclar 2000). Even though privatisation is often associated with welfare states in "the West", the trend has spread across the globe and has left few societies unaffected (Feigenbaum and Henig 1997: 338f). Although many decisions to privatise have been hotly debated – such as the privatisation of prisons or the creation of a "punishment industry" in the US – market or contract solutions to previously public services and functions has gained considerable currency in the past decades (Donahue 1989: Ch. 8; also Sclar 2000: 122). Over time, the privatisation of security functions and services such as policing – although possibly more resistant to the "privatisation ethos" than other areas – appeared increasingly appropriate or even necessary to outsource to private actors (Abrahamsen and Williams 2007: 134).<sup>52</sup> As more functions were privatised, moving this practice into different parts of the military arena, Singer suggests, was "less of a stretch" for political leaders (Singer 2003: 66). Basically, the increasing influence of free-market or neo-liberal economics on a global scale made security privatisation – at least in the eyes of its proponents - the next logical step in an effort to increase effectiveness and flexibility by downsizing public sectors.

From this perspective, the privatisation of the instruments and use of force in the context of armed conflict should be understood as part of, and arguably as a more radical aspect of, a larger trend towards privatisation and outsourcing (Singer 2003: 68). In addition, it should be seen to a considerable extent as constituting a deliberate change in state-violence relationships. Importantly, as Abrahamsen and Williams observe, the expansion of the market for private forms of protection involves much more than the private military and security companies doing business in the context of armed conflict, i.e. outside the military sphere (Abrahamsen and Williams 2007: 132). Undoubtedly, the privatisation of "mundane" or "day-to-day" forms of security and protection or policing of people and property also need to be acknowledged as part of the same process as

<sup>&</sup>lt;sup>52</sup> In the late 1980s, amidst ongoing efforts to downsize public sectors in Britain and elsewhere, the privatisation of functions such as policing actually made for a good joke. For instance, in the pilot episode of the BBC series *A Bit of Fry and Laurie*, starring Stephen Fry and Hugh Laurie, a man walks in to a police station to report his car stolen. The police officer asks him if he has "an account" and the man replies: "I'm a citizen, if that's what you mean". The officer answers "Citizen? Oh, you mean client?" The man looks perplexed and explains that he has been out of the country and has only recently returned to England. The officer then asks: "Did you perhaps miss the privatisation of the police force?" The man looks even more confused and the officer explains: "This is now a branch office of BritLaw Plc." (Fry and Laurie 1987).

the more conspicuous increase in the use of private security companies to engage in combat or to supply armed escorts to civil servants in war zones (ibid: 133, 137ff; also Wakefield 2003). The global expansion of private security – from the mundane to the extraordinary – suggests that in the post-Cold War period, what was once considered core state functions and services are being outsourced to and performed by private companies, many of them transnational and operating on a global market.

Before continuing, one important caveat concerning the concept of privatisation is worth repeating. When discussing privatisation, the process is usually understood as involving the conscious and deliberate transfer of responsibilities and functions from the public to the private sphere. However, this way of thinking about privatisation is problematic outside the context of consolidated (welfare) states. First of all, except in our theoretical models, it is rarely a matter of either public or private, but rather different mixes of "publicness" and "privateness" (Donahue 1989: 9). Secondly, in many situations where private security companies have entered the scene, a narrow conception of privatisation is misleading because it presupposes a level of public control and responsibility that simply does not (and perhaps never did) exist. To get around this problem, privatisation should also be understood to cover the use of private companies to perform functions that have hitherto been seen as (but not necessarily been) belonging to the public domain.

Looking at the development of market for private security services on a global level it must be conceded that there have been conscious transfers of public responsibilities and tasks to the private sector, very much in line with the spread of privatisation policies from the early 1980s and onwards. In a wider perspective, the market has also developed outside the control of any one state and has not emerged only as a result of privatisation in the narrow sense. A broad conception of the concept allows for the existence of different paths leading to the same result (i.e. security functions being performed by private companies), something which is of central importance if we want to use the privatisation concept to cover cases outside the context of consolidated states. In the wider sense, the move towards security privatisation is also part of ongoing changes in the role and function of the state under the influence of processes linked to globalisation. Thus, the following section will dwell shortly on some of the issues of globalisation that are of relevance to explaining the expanding market for security services in the post-Cold War period.

# 6.3. Globalisation, Security Privatisation and the State

In the globalisation debate, questions regarding its existence, meanings, consequences or historical origins are complex, contested, and well beyond the scope of the present discussion. Yet in order to clarify the position of this study

vis-à-vis the globalisation concept, the section will start off by offering some brief indications as to how the concept is understood here, and then move on to discuss how globalisation can help shed additional light on the privatisation of security. A central argument here is that globalisation signals changes in the roles and functions conventionally ascribed to the state and that in the process, new arenas for non-state and market oriented actors and structures, among them privatised security, are created. In addition, although globalisation processes are indeed global, they do not entail a uniform nor a linear development and the effects of, and participation in, globalisation are spread unevenly across the world's regions and states. Even so, there are some general processes and changes that are of particular relevance to explaining the trend towards increasing security privatisation. To do so, however, requires a short discussion on the meaning of globalisation.

On a basic level, globalisation may be thought of as the "widening, deepening and speeding up of worldwide interconnectedness in all aspects of contemporary social life, from the cultural to the criminal, the financial to the spiritual" (Held et al. 1999: 2).<sup>53</sup> Beyond this general description, the more precise meaning of the concept remains the subject of considerable debate. Within the globalisation debate, David Held and his co-writers have identified three broad strands: the "hyperglobalist", the "sceptical" and the "transformationalist" (Held et al. 1999: 2; also Scholte 2005: Ch. 1). In very simple terms, supporters of the first "school" emphasise the arrival of a global age and the end of the state as we have known it, while the sceptics fundamentally question the existence and the speeding up of global interdependence and would argue for the continued centrality of the state in the international system. As will become increasingly clear, and following previous discussions on the state and violence, the claims and arguments presented here are predominantly in line with the third strand of the debate, for instance as it emphasises the continued relevance of the state under globalisation (rather than purporting its ultimate demise or the continuation of business as usual), albeit in different shapes and forms than have conventionally been assumed (Held et al. 1999: 3ff).

In economic terms and drawing on the language of economic historian Karl Polanyi, Björn Hettne has argued that the globalisation can be seen as a "further deepening and expansion of the market system" on a global scale (Hettne 2002: 10). This development has been advanced in part by ideological neo-liberal (or "Washington Consensus" type) policies designed to create global free market systems through deregulation, privatisation and structural adjustment (Scholte

<sup>&</sup>lt;sup>53</sup> As Philip Cerny helpfully points out, globalisation may also be thought of as a discourse which shapes ideas and perceptions of the phenomenon and, thus, the terms of the globalisation debate (Cerny 2000: 121).

2005: 38ff). Globalisation in this sense has created significantly increased flows of goods, services, workforce and capital across national and regional borders, the growth of global or transnational companies as well as the strengthening and expansion of capitalist structures of production and surplus accumulation (Held et al. 1999: Ch. 3-4; Scholte 2005: Ch. 5). In turn, this has meant that states to an increasing degree have been forced to adapt as best they can to these changing external realities. According to Philip Cerny, globalisation signals the dismantling of the industrial welfare state and the advent of the "competition state" (Cerny 2000).<sup>54</sup> In the process, the "institutions and practices of the state itself are increasingly marketized or 'commodified', and the [competition] state becomes the spearhead of structural transformation to market norms both at home and abroad" (ibid: 128).55 From this perspective, the expansion of a globalised market for private military and security services appears to fit hand in glove with neoliberal discourses on economic globalisation and related strategies of downsizing public sectors and increasing state adjustment to the global market. Peter Singer has expressed this development well:

The idea that the marketplace should be the solution gained not only legitimacy but, in fact, became the de facto international model for efficient governmental and business practice. Thus, when leaders faced new challenges and thought about how to improve their operations, whether in garbage collection, prisons, or in military support, they began to look to the private sphere. (Singer 2003: 66)

Politically, globalisation also indicates a move away from the territorial logic of the modern state system towards the creation of new modes of overlapping and multilayered governance (Held et al. 1999: Ch. 1). In relation to this change, Scholte has observed how in the context of globalisation, the creation of polycentric (i.e. multi-sited and networked) forms of governance also displays a substantial degree of privatisation (Scholte 2005: 214). One example of this is the increasing willingness under prevailing neo-liberal policies and discourses to promote private regulation. As will be developed in the next chapter, the lack of state level regulation of PSCs in Iraq and the partial reliance by states on security industry associations and the companies themselves to provide rules and guidelines can be interpreted as one expression of such privatisation of regulation. Another representation of privatised governance, Scholte argues, can be found in the

<sup>&</sup>lt;sup>54</sup> Other authors have used concepts such as "the contract state" or "the market-state" to describe similar, market-oriented shifts and changes in state policies and organisation (e.g. Sclar 2000; Bobbitt 2003: 228ff).

<sup>&</sup>lt;sup>55</sup> Obviously, the ability of states to compete in (or to gain access to) the "globalised space" obviously differs enormously; strong and/or competitive states can promote certain interests through liberalisation and privatisation, while poor states participate in globalisation on entirely different terms (Hettne 2002: 10f; Scholte 2005: 325ff).

contracting out of public services to private providers, for instance in terms of humanitarian relief and security or military services and operations (ibid: 217).

In the context of globalisation, then, security privatisation can be understood in relation to – or as an expression of – the ongoing deepening and expansion of the market system and the pressure among states to adapt to this environment by making it more competitive, for example through "marketization" of state activities and the replacement of public with private provision (Cerny 2000: 136f). From this perspective, it may appear logical (or perhaps even necessary) in the eyes of political leaders to pursue outsourcing and privatisation of security and military functions. To stable states in the North, security privatisation may appear as one way to increase competitiveness and flexibility; for weak states in the global South, turning to private companies may, as will be discussed further below, be less of a matter of choice and sometimes an option of last resort (Mandel 2002: 60f). Moreover, the increasing reliance by state and non-state actors on private forms of security and protection creates new modes of (security) governance or "ungovernance" as states and international organisations prove unable or unwilling to regulate these actors (Leander 2002).

Developments related to globalisation have been interpreted as indicating the demise of the modern state and the end of sovereignty as we have known it. While it is certainly true that globalisation has affected the state in numerous ways, it is also true that states do remain important actors. Cerny argues that "[t]he state as an institutional structure per se is not withering away; indeed, it is developing new and more complex structural forms and features in a more open, cross-cutting world" and remains central as "enforcer of rules and practices" (Cerny 2000: 120, 121). Rather than speaking of the demise of the sovereign state, it makes more sense to speak of state change or transformation. As Hettne has observed, the state remains important even though "[s]ome of its traditional functions are debundled and transferred to new institutions on various societal levels" (Hettne 2002: 12). These changes are clearly in line with the historical record; in the broad perspective, the nature of the state was never "fixed" (Scholte 2005: 192). Hence, security privatisation need not be interpreted as a nail in the coffin of the modern state; rather it is an indication of state change and adaptation in the context of accelerating globalisation in the late modern period. In his analysis, Lundqvist observes how privatisation processes changes the nature of the public sector and its role as producer and financer of certain goods and services (Lundqvist 2001: 282). In this case, the changes are taking place within institutions and structures that are linked to the provision of security or protection and the use of force.

One way to make sense of this change is to return to the discussion of the concept of sovereignty. As argued out in the discussion of this concept in Chapter 3 above, neither globalisation nor security privatisation spell the end of sovereignty as such, but rather a number of changes in its institutional organisation and related

practices. Again, such changes are not new and exceptional. While it is certainly true that globalisation has meant a "renegotiation of the Westphalian notion of sovereignty", it is also true that "Westphalian sovereignty" was never universally realised, nor did it remain uncompromised (Held et al. 1999: 188; Krasner 1999; also Scholte 2005: 188ff). Hence, shifts in territoriality, state autonomy or state-violence relationships associated with globalisation do not render the concept redundant or obsolete. They do, however, signal a re-articulation and renegotiation of its meaning (Held et al. 1999: 443). In this perspective, changes in state-violence relationships brought about by privatisation are compatible with sovereign statehood even though the state's coercive organisations and capabilities are restructured. In the process, the distinctions between state and non-state realms of authority as well as the capacity of the state to control the instruments and use of force become increasingly complex.

Thus, through the privatisation of violence and security or the "externalization of state functions", supposedly fundamental divisions that define sovereign statehood are, to some extent, compromised or eroded (Mandel 2002: 79). Indeed, the practice among state and non-state actors to rely on (often transnational) private companies for the delivery of a wide range of security and military services indicates a "potential devolution of coercive authority to the 'private sector" (Thomson 1995: 230). Even with the proliferation of these practices, however, states and state leaders recognize each other as sovereign entities in the international system. Again, while it is clear that security privatisation does not bring about the end of state sovereignty as such, it does indicate a change in how it is understood internationally and in the ways in which sovereign statehood are practiced. With the "re-authorisation" of non-state violence in the late modern period, the challenge is to find out how these changes come about and what they entail in terms of reshaping the ways in which states do or do not control the use and instruments of force.

To sum up the discussion so far, it can be argued that security privatisation in recent decades has accelerated in the wake of structural changes following the end of the Cold War and the dismantling of many of the military and security structures of the bipolar world order. In addition, it is a continuation of the privatisation wave that took off in the early 1980s and that have meant an increasing role for private sector actors across public sectors, including security/policing and the military. Finally, security privatisation should be understood in the context of globalisation and as part of an ongoing growth of "transplanetary and supraterritorial connections" whereby the roles and functions traditionally ascribed to the territorial state are increasingly taken over by, and/or outsourced to, market actors (Scholte 2005: 8). In the process, it may be argued, presumably core state functions are privatised and externalised in a way that changes the ways in which sovereign statehood is organised and practiced. Closely linked to these changes and challenges to familiar forms of state authority and governance, as

well as to upsurge in the practice of employing non-state forms of violence and protection, is the changing nature of war and security. Discussing central aspects of the transformation of war and security will help explain the expansion of the market for security and military services further.

## 6.4. The Changing Nature of War and Security

Adding to the explanation of growing security privatisation in the post-Cold War period are changes in the nature of armed conflicts and the structure and logic of security issues and threats. Of course, these are large fields of study in their own right, and the subsequent sections cannot hope to do much more than to scratch the surface of these issues. Hence, what the following pages will provide is not a comprehensive overview of the changes in the nature of war or security, but rather an investigation of those aspects that are particularly relevant to understanding the growth of the current market for private security. The first section will discuss the changing nature of war and, more specifically, what has been called the "privatization of war" or the "de-statization of war" in recent decades (Møller 2005; Münkler 2005: 16). While it is readily agreed that investigations into the so-called "new wars" offer many valuable insights into post-Cold War security privatisation, the newness of actors and structures should not be exaggerated. The second part will discuss the changing nature of security issues and structures in the post-Cold War and post-September 11 period. Here, it will be argued that in order to understand changes connected to the expansion of the private security industry, the meaning of the concept of security must be carried beyond the military domain and the realist emphasis on national or state security. First, however, attention will be directed at the changing nature of war and warfare.

## 6.4.1. Security Privatisation and the "New Wars"

It has been argued that the privatisation of security in the post-Cold War period – especially in and around zones of armed conflict – is partly a function of transformations in the nature of war and warfare (e.g. Singer 2003: 60ff; Kinsey 2006: Ch. 6). In turn, the idea that violent conflicts in the late modern period are different from past experiences and therefore cannot be explained by conventional theories has gained much currency since the 1990s. In her influential study, Mary Kaldor has argued that wars in the global era are so different from the past that they in fact constitute qualitatively "new wars" (Kaldor 1999). Kaldor is not alone in observing changes or in her search for a way of characterising these conflicts; to signify their difference to conventional (or Clausewitzian or Trinitarian) wars of the past, they have been labelled not only "new" but also "low intensity conflicts", "network wars", "wars of the third kind", "small wars", "uncivil wars", "post-

modern conflicts" and "complex humanitarian emergencies", to name but a few (e.g. Angstrom 2005; Smith, M. L. R. 2005; Miall et al. 1999: 66ff; Holsti 1996; Keane 2004; Duffield 2002; Duffield 1998; Münkler 2005: 22ff; Kaldor 1999; van Creveld 1991). The primary concern here is not the question of how to label these conflicts, but rather to show how changes in the nature of war and warfare have been analysed in relation to the privatisation of security. To initiate this discussion, some of the key elements of change identified in the literature on the transformation of war will be reviewed.

Just like most accounts of the essence of the relationship of the state to violence depart from Weber's idea of the modern state, so do many studies of the nature of war and warfare, and changes therein, draw on Clausewitz's theory of war. Like Weber's definition of the modern state, Clausewitz's influence on theory and policy has been significant (van Creveld 1991: 34f; Howard 1993; Brodie 1993; Paret 1992: 3ff, Ch. 7). Analyses of war and warfare that derive from the theory of war launched by Clausewitz in the nineteenth century are, as discussed previously, connected first and foremost by their emphasis on the state. On a basic level, war is seen as political in nature, ideally governed by the political goals of the state and primarily fought out between states by means of their national militaries (Paret 1992: 109ff; van Creveld 1991: 36ff; Holsti 1996: 2). As noted above, van Creveld argues that the Clausewitzian theory is essentially statist and based on the view of war as a trinity, consisting of the people, the army and the government and dependant on a clear division between these three elements (van Creveld 1991: 35-49; von Clausewitz 1993 [1832]: 101). According to van Creveld, the statist focus and the basic delineations of the Clausewitzian framework are highly problematic, particularly in relation to armed conflicts after the Second World War.

In The Transformation of War, van Creveld starts off by describing the nuclear logic of the Cold War. In brief, he concludes that because of the obvious risk of "global suicide" in the event of nuclear escalation and war, states continued to prepare for "conventional war" (van Creveld 1991: 2-18, 19f; also Gaddis 2005: 50ff). The problem is that since 1945, conventional war is no longer the predominant form of violent conflict. Instead, the majority of wars have been of the "so-called 'lowintensity' variety" (van Creveld 1991: 20). According to van Creveld, the main characteristics of low-intensity conflicts (LICs) are that they tend to unfold in "less developed" parts of the world, that they rarely include regular armies on both sides and that they do not rely primarily on high-technology collective weapons. Apart from being the dominant form of war since 1945, LICs have also resulted in enormous numbers of casualties, many of whom have been civilians. Citing a number of examples, van Creveld also argues that in their attempts to intervene in these conflicts, conventional forces of powerful states have repeatedly failed, despite employing the best available troops and the most sophisticated technology and weapons (ibid: 20-32, 58ff). His main point is that these conflicts can neither be understood, nor resolved, within a trinitarian framework (ibid: 35-49).

The very essence of non-trinitarian war is that it "circumvents and undermines the trinitarian structure of the modern state" and this is why the state "in many ways is singularly ill-suited for dealing with this kind of war" (ibid: 194). The issue becomes even more problematic as one considers that the developing states in which many of these conflicts take place have never been able to establish a distinction between army, people and government, and, thus, this distinction "began to fall apart before it had even been properly established" (ibid: 195). As these conflicts spread, van Creveld predicts, they will cause the "trinitarian structures to come tumbling down" and as they do, states will weaken, their monopolies of violence – such as they are – will wane and the line between war and crime will break down (ibid: 202, 204). While this is certainly an abridged version of van Creveld's main postulates and predictions for the future, it still shows that changes concern not only the actual fighting of wars but also the fundamental distinctions and boundaries around which national states and their relationship to violence have been organised in the Westphalian period.

The inability of many states to secure control over the instruments of violence and the blurring of lines and boundaries in the globalised post-Cold War era has led many scholars to follow van Creveld's example and to question the relevance of state-centric theories of war and warfare. According to Mary Kaldor – who essentially accepts and builds on van Creveld's reading of Clausewitz – the "new wars" of the global era differ widely from "conventional" or "old" wars in terms

<sup>&</sup>lt;sup>56</sup> The newness of changes, actors and processes related to the "new wars" or the "new war thesis" have been criticised for being overestimated or not sufficiently qualified (Kaldor 2005). Essentially, Kaldor is right in her observation that the Clausewitzian perspective has been dominant in theory and policy-making and that within this tradition, other forms of war have barely been recognised as war at all (Kaldor 1999: 15). Basing her analysis on the comparison between predominant interpretations of war the "new wars" makes it possible to point to fundamental differences and changes. Yet contrasting the "new wars" with a "stylized description of old wars" may also run the risk of overemphasising the relevance of the ideal by not placing it (or the actors of the "new wars") in a wider perspective (ibid.). As Newman observes, "the problem with much of the [new wars] literature is not in its analysis of contemporary conflict; rather it is in suggesting that this is distinct from the past" (Newman 2004: 185). A critical assessment of the new wars literature, Newman points out, reveals that several of the basic assumptions made about the newness of these conflicts are of questionable validity in a broader historical perspective. The point is not that actors, objectives, spatial context, human impact, political economy and social structure have not changed over time, but rather that many factors that characterise the so-called new wars have been present, to varying degrees, in past conflicts as well. Paying insufficient attention to historical examples, Newman argues, leads to an exaggeration of the newness of these conflicts and misses important points about the development of war and warfare over time (ibid.). Contemporary conflicts certainly do take place in a qualitatively different globalised setting and display a number of unique features, but the "new wars" also have much in common with the wars of earlier periods (e.g. Münkler 2005; Smith, M. L. R. 2005). Certainly, Kaldor and other analysts of war are not oblivious of historical connotations; the nature

of their goals, the methods used to fight them and the ways in which they are financed (Kaldor 1999: 6ff; Kaldor 2005; cf. van Creveld 1991: 192-223). In short, the goals of the "new wars" are more about identity politics whereas the old ones were more about ideology or geo-politics; the methods used to fight them are marked by guerrilla and counterinsurgency tactics and violence is often aimed at civilians and non-combatants (Kaldor 1999: 6-8, 97-101). 57 Moreover, the forces fighting these wars are not like the conventional, vertically organised armies. Instead, "the units used to fight these wars include a disparate range of different types of groups such as paramilitary units, local warlords, criminal gangs, police forces, mercenary groups and also regular armies including breakaway units of regular armies" (ibid: 8). Finally, compared to the highly centralised and autarchic economy of the old wars, the economies of the "new wars" are globalised, decentralised and often criminalised or informal. Normal trade, foreign investment and production decline, as do the levels of employment and tax revenue. Warring factions and warlords frequently turn to transnational black markets, plundering or to illegal trade in arms, drugs or valuable commodities such as oil and diamonds and become part of the informal, parallel or shadow economies of these conflicts (Kaldor 1999: 9, 91-93; Duffield 2001: Ch. 6; Duffield 1998; also Reno 1998).

In the context of these conflicts, Kaldor observes a "fragmentation of military units", a breakdown of the state's control over the instruments of war, and a consequent "privatization of violence" and protection (Kaldor 1999: 92; also Münkler 2005:16ff; Duffield 2001: 170-187; Reno 1998: 54ff). Here, privatisation should be understood in the widest possible sense as the increasing emergence of essentially non-state actors in and around the conflict zone. This privatisation is a consequence both of state weakness in the face of globalisation and of the outbreak of armed conflict, but also of conscious policies aimed at public downsizing and outsourcing. The result is what Singer has called a "rise of non-states in violence", meaning the appearance of non-state conflict groups (e.g. terrorist organisations or drug cartels) that are not tied to, nor controlled by, any one state (Singer 2003: 51f). In this context, Kaldor observes how among the actors fighting the "new wars", a "new phenomenon" has appeared in the form of commercial actors such as private military and security companies (Kaldor 1999: 94f). As the previous chapter has shown, however, the newness

of violent conflict in the late modern period has often been likened to some form of a reversal of the development of states and their relationship to the instruments of violence (Kaldor 1999: 5; Kaldor 2005; van Creveld 1991: 200, 212).

<sup>&</sup>lt;sup>57</sup> As Duffield points out, many of these conflicts tends towards extremes when it comes to the use of violence and the deliberate targeting of civilians. In several cases (Rwanda being an obvious case in point), social, ethnic and political groups have employed extreme measures, including ethnic cleansing and genocide, to achieve their goals or to "secure conditions for their existence" (Duffield 2002: 85).

of these actors should not be overstated. Even so, the increasing importance of a wide range of essentially non-state actors signal a change in ways in which armed conflicts are being fought and financed in the late modern period.

This "de-statization of war" is intimately linked to the impact of globalisation on the role, competence and function of the state. In relation to post-Cold War armed conflicts, the growth of transnational networks has created new constellations of actors and opened up for increasing involvement of private security companies. To signify the growth of trans-border activities and structures in many of these conflicts, Duffield has termed them "network wars" (Duffield 2001: 14; Duffield 2002: 81ff). In response to these wars and influenced by the merging of (liberal) development and security (liberal peace) strategies, Duffield observes how "strategic complexes" consisting of a mix of states, international organisations, aid organisations, financial institutions and private companies have emerged (Duffield 2001: 35ff, 44ff). Interestingly, these complexes reflect the increasing role of private actors and the consequent blurring of lines between, and combination of, state and non-state actors and structures that are characteristic of the wars themselves (ibid; also Kinsey 2006: 121f). Building on Duffield and linking the challenges of the "new wars" - particularly in Africa - to the privatisation of security, Kinsey argues:

Western governments have either ignored them [the conflicts] or sought alternative structures of conflict resolution, linking and integrating state and non-state actors, public and private organisations, and military and civilian organisations to bring these wars to an end. As such, strategic complexes are now important formations in confronting the new wars and the merging of development and security, facilitated by the privatisation and subcontracting of former state development and security responsibilities. [...] The privatisation of violence by members of strategic complexes is the most controversial aspect of their response to new wars and the convergence of development and security. [...] [T]he West's reluctance to deploy military force to end new wars has meant NGOs, international organisations, and the business sector turning to alternative measures to protect their organisations and create a secure environment in which to work. [...] The employment of private security companies to guard facilities, including oil refineries, diamond mines, humanitarian convoys and food aid, is now a common occurrence for members of strategic complexes. (Kinsey 2006: 131)

Seen from this perspective, the privatisation of security in the context of violent conflict is closely tied to changes in the nature of war and warfare, and to the responses to these conflicts in the post-Cold War, globalised period. As security and development issues and policies come together under banners such as liberal peace or human security, new forms of public-private interaction are created, opening up for an increasing use of private companies to provide a wide range

of services (including protection) to other state or non-state actors involved in the networked responses to violent conflicts (Duffield 2001: 16; Duffield 2002: 86ff, 170ff; Kinsey 2006: 52ff). Hence, as Kinsey concludes, the "privatisation of security is suited to new wars" (Kinsey 2006: 133). Yet, it is not only Western governments, NGOs, international organisations and national or transnational business enterprises that have turned to private security to be able to operate in unstable environments.

The most conspicuous and arguably most controversial representations of this development have been cases such as the aforementioned wars in Angola and Sierra Leone where governments of the beleaguered states have turned to private companies (e.g. Gurkha Security Guards, Executive Outcomes or Sandline International) to help in the war effort. However, instances of private companies being hired to actively take part in violent conflict (e.g. by providing combat support) have been (to date) exceptions rather than the rule. Still, leaders of states facing violent internal conflict – particularly in the so-called developing world – may in fact see few other options than to turn to outside non-state actors for different forms of security or military support. As Mandel and others have observed, demands from donor states and international financial institutions such as the IMF and the World Bank for structural adjustment, privatisation and downsizing of public sectors have frequently meant cuts in military spending (Mandel 2002: 60; also Musah and Fayemi 2000: 4; Howe 1998; Reno 1998: 50ff; Sellars 1997). At the same time, many weak states have faced growing domestic problems and increased levels of violence, coupled with a decreasing interest and/or ability on part of powerful states and regional or international organisations to provide outside security assistance. According to Mandel, this "creates a predicament wherein poor countries' governments have few immediate options other than turning to private security providers as the means of ensuring their own stability and, indeed, continuity" (Mandel 2002: 61).

Outside the context of armed conflicts in developing countries and the complex networks that have emerged to resolve them, Singer also notes an increasing "civilianization" of war and warfare (Singer 2003: 63). This development is partly a result of increasing technological requirements of late modern warfare (often associated with the so-called revolution in military affairs or RMA), where state militaries become increasingly dependent on private companies to keep the latest military technology (including weapons and communications systems) functioning (for one discussion of the strategic and political implications of the RMA in its different guises, see Bobbitt 2003: 295-332). Apart from being another aspect of the trend towards privatisation in relation to war and warfare, this increasing role for civilians and private companies in war also suggests a further blurring of the lines that are supposed to distinguish between civilian and military personnel; lines around which traditional ideas and laws of war have been constructed. Hence, it may be argued that across the spectrum – from high-tech military operations carried

out by powerful states' militaries to violent conflicts taking place in developing countries and fought out between state militaries and various non-state groups – changes have occurred that increasingly puts the (historically problematic) idea of a state "monopoly of war" in question (Singer 2003: 64). In the process, non-state actors ranging from "violent entrepreneurs" or warlords to NGOs and private companies including PSCs have become increasingly important parts of the realities of post-Cold War armed conflicts (Volkov 2002). Changes in the nature of war and warfare taking place in the context of accelerating globalisation have been highly important to the re-emergence of non-state providers of security and protection in and around zones of armed conflicts in recent decades. Yet as pointed out elsewhere, the privatisation of security is global in nature and is certainly not limited to developing states or to violent conflicts. Seeking additional parts of the explanation for the security market's expansion, the trend towards privatisation can usefully be viewed as part of a larger reconfiguration of security issues and structures in the post-Cold War and post-September 11 period.

## 6.4.2. Security beyond the State

From the discussions above, it has become clear that several changes and developments related to the end of the Cold War, the privatisation wave, globalisation processes and the changing nature of war have paved the way for the recently accelerating privatisation of security both in and outside the context of violent conflict. In the process, roles and functions traditionally ascribed more or less exclusively to the state are increasingly put into question. In the same vein, the subsequent pages will elaborate on this theme and try to provide additional insight into the expansion of the post-Cold War market for private security services by considering changes and developments related to security issues and structures. As a point of departure, it is useful to note how the development and use of private military and security companies "challenge[s] one of the basic premises of the study of international security: that states possess a monopoly over the use of force, and thus the study of security can be based on the premise that states constitute the sole unit of analysis" (Singer 2003: 233). Indeed, the very existence of this field of study – that is, the extensive privatisation in the field of security and military services and a growing importance of essentially non-state security actors – is a pertinent indication of the need to carry the study of security beyond the narrow confines of the "traditional" focus on national or state security.

This observation is by no means novel or unique. In security studies, the perceived need to "widen" and/or "deepen" the research agenda to include non-state actors and non-military sectors has given rise to strands or "schools" of research that in different ways take issue with so-called "traditionalist" (i.e. realist or state-centric) frameworks (e.g. Buzan 2007: 25ff; Krause and Williams 1997b; Buzan et al. 1998: 1ff; Wæver 2004; Booth 2005b; Smith, S. 2005; Huysmans 2006: Ch. 2). While

these alternative or non-traditionalist approaches differ in several respects, most observers would agree that in the post-Cold War period – and perhaps even more so after September 11 and the onset of the "war" on terrorism – questions of what constitutes a security issue or a threat, who has the authority to define these threats and who provides protection against them can no longer be satisfactorily addressed within a state-centric framework.<sup>58</sup> The key argument here is that these purported changes in the nature of security issues and/or in the ways in which they are construed and analysed warrant attention because they provide insights into the recent expansion of the global market for commercial security services as seen through the lens of security studies.

Before discussing some of these changes, it should be noted that security is also "a historically variable condition" in that the sources of perceived insecurity or threat may vary across time and space (Krause and Williams 1997b: 36; also Booth 2005: 13). Examples of such shifts include the end of the Cold War which signalled a move away from the security logic of that period, where the threat of all-out nuclear between the two superpowers war was portrayed as the overarching threat on both sides. The variable nature of security means that dominant ideas about what constitutes the most important object to be secured - the referent object - and from what this object should be made secure may change. Correspondingly, and as indicated by the expansion of the market of non-state security, the providers of protection against perceived threats shift over time. Within realist frameworks, the state is the focal point and the primary referent object of security, meaning that states (and their militaries) are the central actors in international security and the main objects to be secured. Threats to the state are primarily understood in military terms and as emanating in the context of international anarchy (e.g. Krause and Williams 1997b: 34f, 39ff; Smith, S. 2005; Walker 1997; also Buzan 2007; Buzan et al. 1998: 36). While the realist understanding of security was dominant in and outside academia in the period after World War II, it has become increasingly clear that this narrow focus on the state and the military sector is unable to capture important aspects of security, threats and protection.

In the previous section, it was suggested that one important trend that speaks against a state-centric and outward-looking understanding of security is the changing nature of armed conflict. Many of these conflicts take place within states rather than between them and include a number of essentially non-state

<sup>&</sup>lt;sup>58</sup> Even though the end of the Cold War and the attacks on September 11 lend support to arguments in favour of deepening and widening the security concept and to look beyond the state, Steve Smith also points out that in the US-led war on terrorism is very much state-based and state-led. Smith's argument is that while there are ample reasons to expand the understanding of security outside the state and the military, states and state militaries still remain important actors in forming the logic of post-Cold War (and post-September 11) security issues (Smith, S. 2005: 57f).

actors beside state militaries. Basically, the nature and logic of security and protection in these conflicts cannot be explained within the realist paradigm (e.g. Ayoob 1997: 122). One obvious example is the role and perception of the state as provider of protection. Here, it is instructive to recall that the state's claim to monopolise violence has remained a "remarkably fragile achievement in many countries" (Held et al. 1999: 45; Wulf 2008: 195). In relation to this lack of control of violence, it has been observed how in many societies where violent conflicts erupt, there is no tradition of seeing the state as the source of protection (Mandel 2002: 60). In fact, the state and its agents can be a source of violence, insecurity and threat (Linklater 2005: 116f; also Buzan 2007: 55ff). Hence, when the state is weak or perceived as a source of threat and insecurity, protection may be sought elsewhere, for example from warlords, criminal gangs, insurgent groups or private security providers. Both in and outside the context of armed conflict, Kinsey observes how private security has taken over as the primary source of protection for many social groups (Kinsey 2006: 54f). <sup>59</sup>

As noted above, commentators such as Duffield have observed a merging of security and development in the context of these conflicts. Through this process, it is argued, development issues are "securitised" so that underdevelopment and poverty are increasingly seen as security problems or potential threats to peace and stability. In this context, the meaning of security is widened and reformulated; under the rubric of "human security" (a concept launched by the UNDP in 1994), the focus of security shifts from the state to groups or individuals (Duffield 2001: 35ff; Duffield 2002: 88ff; also Smith, S. 2005: 51ff). For the purpose of the present discussion, a central consequence of this merging of security and development has been the increasing role given to non-state actors and private sector alternatives in development projects as well as in the field of security and protection. From this perspective, the increasing demand for private security in and around war zones or in post-conflict societies has been shaped by a growing need and/or willingness among states, aid agencies, NGOs and international organisations to rely on private sector alternatives to protect their operations in unstable environments. In turn, this development is closely related to general changes in the way security discourse has become increasingly connected to development issues and to some degree dissociated from the military security of the state.

The idea of the changing character of security issues has been captured by Cheeseman who lists a number of "new sources of insecurity and conflict" such as "disputes over the control of, and access to, resources; various nonmilitary

<sup>&</sup>lt;sup>59</sup> In addition, Avant has pointed out how "[t]ransnational firms in the extractive industry, particularly, are often likely to stay in dangerous areas if that is where the resources are. Unable to rely on weak states for security and often unwilling to leave, these actors have provided another pool of demand for non-state protection that PSCs have exploited" (Avant 2005: 37).

threats to societal harmony and well-being posed by such things as traditional and cyberterrorism, drugs, transboundary crime, epidemics, and disease; population migration caused by poverty and over-crowding, political oppression, and instability; and growing environmental degradation" (Cheeseman 2005: 71). While the actual newness of these sources of insecurity is debatable, Cheeseman nonetheless observes that militaries of stable states are increasingly involved in broader regional and international security tasks, and in the responses to these threats, military forces are called upon to perform a wide range of tasks (humanitarian assistance, disarmament, elections, management of refugee movements etc.) that takes them beyond traditional war-fighting and into the realms of peacemaking, conflict resolution and "operations other than war" (ibid: 71ff, 79).

In the globalising world, Cheeseman argues, the security agenda is perceived to be expanding. While states and their military forces have been forced to adapt as best they can, it is clear that the possession of a strong military "provides little protection against suicide bombers, cyberterrorists, and other third wave warriors" (ibid: 82; Smith, S. 2005: 57). And, one may add, national militaries are limited in size and are still very much tied to particular states. Hence, in what is seen as a "new and more complex security environment" solutions to many security problems are sought outside the context of states and their militaries (Cheeseman 2005: 82.). To find protection from perceived threats in the post-September 11 period, many states, private companies and non-state organisations have employed the services of private security companies. For states, turning to private companies can be a way of easing the pressure on overstretched military or police forces. Also, security privatisation may be a way to confront or mitigate perceived threats "by proxy", thus avoiding public scrutiny or other negative outcomes (e.g. the death of citizens/soldiers) associated with using the military (Mandel 2002: 66; Avant 2005: 4). In sum, it may be argued that the increasing demand for private security is related to the widening of the security agenda to include a number of non-state and non-military actors and issues.

Finally, it should be pointed out that in the post-Cold War and post-September 11 world, the use of private security services among private citizens and companies in societies not affected by violent conflict is also increasing. This development includes (but is not limited to) the growth of the kidnap and ransom insurance industry as well as the increasing number of people adopting a what Bislev has called security lifestyles, for instance by hiring private security guards or buying houses inside gated communities (*Financial Times*, May 25, 2001; *Economist*, August 26, 2006; Lobo-Guerro 2007; Bislev 2004: 599f). In the period after September 11 and the onset of the global "war on terrorism", the growing use of private security companies by individuals may be understood as part of the attempt to deal with an increasing notion of risk and insecurity. The attraction of privatised security may be explained by the "increasing set of fears and apprehensions by the mass public about its own safety" (Mandel 2002: 64). This is in line with the

observations of Ulrich Beck about the "risk society" – a society that is "increasingly occupied with debating, preventing and managing risk" (Beck 2006: 4; also Bislev 2004: 603f). While the reasons of the spread of these perceptions of risk and threat among people are numerous and complex, at least part of the explanation can be attributed to the dominant discourse on global insecurity and the threat of weapons of mass destruction and terrorism in the wake of September 11 (e.g. Bigo 2006). In this context, it is unsurprising to find that private companies providing a wide range of security services have flourished (Mandel 2002: 65).

In sum, changes in security structures and issues, ranging from the end of the bipolar logic of the Cold War and the spread (or increasing awareness) of nonmilitary threats to the increasing privatisation of public safety in the face of perceived threats after events such as September 11, have contributed to the increasing demand for private security in recent decades. In turn, these changes are closely connected to processes of globalisation and changes in the nature of war and warfare. While the most spectacular representations of this trend are found in the context of armed conflict, it is important to emphasise that the privatisation of security occurs in many different social settings. Importantly, this development cannot be understood within a traditionalist framework but demands that the concept of security be widened to include non-state and nonmilitary actors and structures. While the present discussion has only been able to touch upon a few basic ideas about changes in security and protection, they have provided an important complement to the story of the expansion of the market for private security and military services in the post-Cold War period. To put this overview of the expanding market for military and security services in perspective, the final section will point to some of the linkages between past and the present forms and expressions of non-state violence and protection.

## 6.5. Post-Cold War Privatisation in a Wider Perspective

Above, it was argued that the expansion of the market for PSCs in recent years should not merely be understood as a result of the end of the Cold War or accelerating globalisation. For sure, these events and processes have greatly influenced the increasing demand for, and supply of, private security- and military-related services in the post-Cold War period. Yet as the previous chapter indicated, securing control over the means and use of violence – and the corresponding decrease in non-state violence – has been important to state formation and consolidation processes. In view of the development of the modern or Westphalian state, whose endeavour to maintain a monopoly of violence has been seen as central to its organisation and claims to authority, the return of the practice of relying on non-state violence and protection and the substantial expansion of the market for military and security services appears surprising and perhaps even counter-intuitive. At the same time, however, one should not forget

that past forms of non-state violence did in fact furnish rulers and states in the making with readily available means of war and protection that played important parts in the processes whereby states developed.

Certainly, a number of serious problems were generated through the heavy reliance on non-state actors that eventually led to their near disappearance, but one could still argue that for a substantial period of time from the sixteenth century onwards, non-state providers of military or protective services "filled the gap between state will and capability" (Donald 2006: 6). Hence, when the state (or the king), for political or economic reasons, was unable or unwilling to allocate the necessary resources to carry out a military operation, to maintain a trade route, or to use citizens or subjects in war, non-state actors were engaged to perform these tasks instead (ibid: 7). These observations are not made in defence of the current move towards privatisation. Rather, they serve the purpose of supporting the argument that while the expansion of the current market was not inevitable or predestined, it must also be conceded that turning to non-state violence and protection has historically been considered viable and acceptable (e.g. Avant 2005: 38). Hence, in a wide perspective, the recent (re-)turn to market-oriented options did not appear out of nowhere. On the contrary, if Singer's observation that "the state's monopoly of both domestic and international force was a historical anomaly" is taken seriously, then the expansion of the market for military and security services appears less exceptional (Singer 2003: 39).

In this context, the ideational and material changes that have been reviewed above contributed to making private security options appear as functional (and sometimes the only available) alternatives in the eyes of political leaders, transnational corporations and various governmental and non-governmental organisations. While the current market has expanded significantly after the end of the Cold War, this does not reduce security privatisation to a post-Cold War phenomenon. On the contrary, the practices, actors and structures that have been emerging in the past decades share important features with forerunners of both the recent and the more distant past. For instance, authors such as Carlos Ortiz argue that embryonic forms of today's private companies can be found in the overseas trading companies (e.g. the Dutch or the English East India Company) and in particular in the military forces they maintained to protect their assets (Ortiz 2007). Others link the form of present-day companies such as Sandline and EO to the medieval military entrepreneurs and the condottieri in Italy (e.g. Zarate 1998: 90). Along similar lines, Mockler notes the return of the term "military contractor" in the media and politics to describe the companies that are working in Iraq and elsewhere; to underscore the linkages to past structures, Mockler has dubbed these companies the "condottieri of the twenty-first century" (Mockler 2006: 325). Although these observations are important and interesting, one need not go as far back as the sixteenth century to find preceding structures and actors. Indeed, other forms of non-state violence and protection have existed that

precedes development of companies and the expansion of the market after the post-Cold War.

Pointing to the historical connotations of the ongoing privatisation of security, some commentators have linked the development of today's private companies to the use of mercenaries and the creation of foreign legions (e.g. the French Foreign Legion) of foreign components in national armies (e.g. Nepalese Gurkhas in the British Army) in the nineteenth century. Others point to the stationing and hiring of military advisors and consultants after the Second World War and during the Cold War, and/or to the extensive employment of mercenaries to fight in the wars of decolonisation in countries like Congo, Angola, Nigeria, and Mozambique in the 1960s and 70s. As we enter the period of decolonisation, the links become more apparent, for instance with the involvement of the British Mercenary Organisation (BMO) in the Yemen civil war in the early 1960s and even more so with the establishment of the first "companies" such as WatchGuard International in 1967, Kroll in 1972, Control Risks Group in 1975 and Defence Systems Ltd in 1981 (see e.g. Shearer 1998: 13ff; Arnold 1999; Francis 1999; Lock 1999; Musah and Fayemi 2000: 13-42; O'Brien 2000a and 2000b; Singer 2003: 34ff; Jones 2004; Kinsey 2006: 43ff; Mockler 1987 and 2006).

The idea here is obviously not to provide comprehensive description of nonstate violence since the nineteenth century. The point with listing the connections made by other researchers is to signal the endurance of the practice of using on non-state (and more or less commercial) actors to perform military and security functions, and to show that the notion of modern-day PSCs as something entirely novel is questionable. Of course, today's companies are different in terms of what they do and for whom they work, and they have had to conform to the security and military environment of the globalised, post-Cold War era. In addition, as Kinsey points out, today's private companies are (in most cases) business organisations, meaning that they are registered entities with a corporate structure and a legal personality, characteristics that set them off from many of the predecessors listed above (Kinsey 2006: 65ff). That there are both similarities and differences between the past and the present is apparent; it is also clear that in order to survive and to fit in line with changes the social, political and legal environment in which they operate, non-state forms of violence and protection have had to be able to "mutate and reinvent itself over the last 40 years" (ibid.). In their current form, many PSCs have found an increasing number of business opportunities in the last decades, something which points to changes in state violence-relationships.

#### 6.6. Conclusions

To sum up, the growing market for private security and military services is the result of a number of complex and interrelated factors, events, and changes.

Structural changes following the end of the Cold War and the acceleration of globalisation are related to an increasing number of internal armed conflicts, which in turn have created an increasing demand for security and military services. To this should be added an expanding set of "new" security issues and sources of insecurity – especially after the events of September 11 – for which states or state-based structures and organisations appeared to have few or no remedies. At the same time, the dismantling of Cold War structures left a large number of state military and security personnel unemployed, thus creating a supply of professionals to be tapped by the private sector. Finally, the global spread of privatisation processes across states and social sectors, and the promotion of powerful states and organisations of a "privatisation ethos" meant that states have sought market solutions to an increasing range of services and activities, including security- and military-related services. What can one make of this?

First of all, it should be stressed that the changes and developments discussed above are not easily separated from or weighed against each other (or against other factors). For now, it is enough to have identified these processes and changes and to have probed their roles in shaping the increasing demand for, and supply of, private security and military services. The account provided in this chapter is both a continuation of the discussion about the changing relationship between the state and violence, and an introduction to the subsequent analysis of security privatisation and state control in the case of Iraq. Within the set of changes and processes discussed above, the military- and security-related roles and functions conventionally associated with state institutions are changing, and the privatisation of security is one expression of such change. In the context of this project, these changes pertain to military and security-related services. On a general level, they are understood as a change in the relationship between the state and violence and a move towards an increasing role for non-state or market actors in the security sphere, suggesting related shifts in the control of the instruments and use of force. Importantly, shifts in state-violence relationships are not new but subject to continuous fluctuations. In this perspective, the privatisation of security – although it takes place in a qualitatively new context – should be understood in part as the re-emergence and a possible re-legitimisation of nonstate and commercial forms of violence and protection. As Taulbee has observed, the "sudden high profile of companies which provide defense services does not signal an innovative departure from past practice" (Taulbee 2000: 436). This does not mean that we should expect previously existing actors and structures to return, but that security privatisation can be expected to display some clearly recognisable features and problem areas.

At the same time, the privatisation of security is closely connected to significant structural changes. Yet instead of interpreting this development as signalling the demise of the state, it should be seen as a change in the ways in which the instruments and deployment of violence are put together and in the ways in which

protection is being provided and organised. Turning to the case of Iraq, we can expect security privatisation to upset ideas about civil-military relations and to challenge conventional modes of state control of force. With this development, we may also expect to find new mixes of public and private that complicate the distinction between different actors, structures and responsibilities on different levels. To find out how the privatisation of security has been realised and what it means in terms of state control, the first task at hand is to investigate how security has been privatised in the case of Iraq in terms of the production, financing and regulation of security- and military-related services.

# 7. Security Privatisation in Iraq: Patterns and Changes

This chapter will investigate the privatisation of security in the case of Iraq and the most central changes that have taken place with regard to security privatisation from the onset of the war in 2003 until the end of 2007. Structuring the investigation around the three categories of production, financing and regulation, this chapter will endeavour to identify and problematise combinations or patterns of privatisation and to point to the mixes of public and private actors and structures that are the most features of security privatisation in the case of Iraq. Knowledge about what is being privatised and how these processes work is key to the question of how security privatisation has developed in Iraq and how this feeds into the issue of changes and challenges to state control. Basically, the chapter is divided into two main parts, where the first will provide a general overview of the development of security privatisation in Iraq, whereas the second will focus on identifying major privatisation patterns. As we shall see, one important characteristic of security privatisation in Iraq is the mixing of public and private actors and structures and a subsequent distortion of lines between public and private. These problems, it will be argued, are closely connected to changes and challenges to state control of force.

# 7.1. Private Security Companies in Iraq: an Overview

To reiterate, the case of Iraq is important because of the extent to which state and non-state actors operating in Iraq rely on PSCs for the provision of a wide range of services. Hence, it is expected that the case of Iraq can yield important insights into the ways in which powerful states such as the US and the UK make use of privatised security and how they have moved to resolved perceived problems. However, and as stated above, any attempt at providing an exhaustive or comprehensive image of PSCs working in Iraq is bound to fail to some extent, mainly because of the (sometimes very) limited access to reliable basic information. Hence, highly important questions about, say, the number of security companies operating in the country at a given moment, the specific contents of their contracts or the ways in which these contracts are financed, can only be partially answered. Accepting and keeping these limitations in mind, an overview of the use of private companies in Iraq is still important in the process of identifying basic privatisation patterns and changes. The first step in this process will be to sketch a background to the increasing use of private companies in Iraq just after the major military operations by coalition forces in 2003. The next step will be to discuss the companies and the services they provide. In the two final subsections, the focus will be on the clients and the ways in which PSC contracts

and activities are financed and regulated. Only by creating such an overview of the market can patterns of privatisation and their potential implications for state control of force be identified and analysed. That, however, will be the task of the second part of the chapter.

# 7.1.1. The Privatisation of Security Takes Off

It has been pointed out that the use of civilian contractors (including security companies) in Iraq – especially by the US – is unprecedented in both size and scope (Singer 2007b: 2). According to some estimates, the ratio of contractors to active-duty US military personnel in Iraq is 1 to 10; in the first Gulf War, the same ratio was 1 to 50 (Avant 2004: 153; Avant 2006). It is this extensive use of private companies (often referred to generically as 'contractors') to perform services ranging from logistics (e.g. Halliburton/KBR) to military training (e.g. Vinnell, MPRI) in and around the conflict zone that has led commentators to talk of a privatised war. After the end of major combat operations was announced by President Bush on board the *USS Abraham Lincoln* in May 2003, the reliance on private companies increased markedly. In particular, there was a significant increase in the demand for security and protective services among state agencies and private companies (Singer 2004; Isenberg 2007). The question, of course, is why and how did this surge occur?

Certainly, many factors influenced the rapid increase in demand for private security after May 2003. According to David Isenberg, this development was "due primarily to the fact that the US political leadership grossly underestimated the number of troops that would be required for stability and security operations" (Isenberg 2007: 83). At the same time, there was at the time an enormous pressure to get reconstruction projects going and to rebuild critical infrastructure. As the US Government Accountability Office (GAO) pointed out in one report, "officials expected that the post-conflict environment in Iraq would be relatively benign and would allow for the almost immediate beginning of reconstruction efforts" (GAO 2005: 14). This was not to be. As the security situation deteriorated in the months after the end of major combat operations had been declared, the lack of protection for reconstruction contractors and civilian government personnel operating in the country became both evident and critical. However, because many

<sup>&</sup>lt;sup>60</sup> Records of the exact number of contractor personnel in Iraq do not seem to exist, but estimates range between 100,000 and 180,000 compared to around 160,000 US troops stationed in Iraq (see e.g. Singer 2007b; Miller 2007; Elsea and Serafino 2007: 3f). These figures include the total number of contractors, including US citizens, Iraqis and other foreign nationals. US contracting agencies such as the DOD, USAID and the State Department have been criticised for not keeping (or making public) records of security contractors and the costs associated with using private security providers (GAO 2005; GAO 2006).

of these firms and agencies were not under the protection of US (or coalition) forces, they appeared to have little choice but to turn to the burgeoning private security industry for their protection (Isenberg 2007: 84; GAO 2005: 10ff). As Donald puts it, the increasingly and apparently unexpectedly unstable security situation in Iraq, together with the fact that a large number people working for government agencies and in reconstruction projects were outside the protection of the military eventually resulted in a "bonanza of security contracts" (Donald 2006: 15). In this context,

[e]stablished companies and start-ups alike – the latter often just consisting of one man using his military contacts to get into theatre, do the rounds of the hotels and see if he could drum up some business – found huge demand for their services" (ibid.).

While private security companies were certainly contracted before and during the more intensive period of the conflict, the major increase in demand for PSC services essentially occurred after the end of major military operations in 2003 (Isenberg 2004; Singer 2007b). Now, what services do these companies provide and to whom?

# 7.1.2. Private Security Providers

Throughout Iraq, private security companies supply state and non-state clients with a wide range of security- and military-related services. Depending on the definition used, 61 security services and contractors may sometimes include logistics, maintenance of weapons systems or the construction of military bases. More often and more to the point for the present discussion, security services are taken to comprise, for instance, military and police training, security sector reform (SSR), risk assessment and intelligence services, interrogators, translators, static guards, bodyguards, armed convoy escorts and protective security details or PSDs (see e.g. Isenberg 2004; GAO 2005: 9; Singer 2004 and 2007; Donald 2006: 15). While basic data on the market for private security in Iraq is very often unreliable and nearly always incomplete, there are still many highly relevant pieces of information that can contribute to this overview of security privatisation. The following pages will take a closer look at the market in Iraq, the services that PSCs provide and some of their major clients, thus paving the way for a discussion on the major privatisation patterns in the case of Iraq.

<sup>&</sup>lt;sup>61</sup> As pointed out in Chapter 3, there is no consensus on what constitutes a security service, a military service or a private security or military company. Definitions may vary for a number of analytical or political reasons, and this needs to be constantly be kept in mind, not least when reviewing the (sparse) data on the number of companies operating in Iraq or the costs associated with private security services.

Singer writes that PSCs "provide a range of tactical military roles on the ground, supplementing the currently over-stretched coalition forces" (Singer 2004: 6). In the same vein, it has been argued that the companies are contracted to "support and replace military functions in Iraq" (House Committee on Oversight and Government Reform, February 2007; cf. Elsea and Serafino 2007: 3). While the extent to which PSCs have actually replaced the military is a matter of debate, it is undoubtedly the case that some PSCs operating in Iraq perform functions closely resembling what is typically conceived as belonging to the sphere of the armed forces, such as providing armed escorts for convoys in a theatre of war. As several company representatives pointed out during interviews, PSCs working in Iraq tend to distance themselves conceptually from the military and see themselves in some respects more as part of the same industry as security companies operating domestically in the US or in Sweden. In some crucial respects, however, they are indeed a far cry from the guards at the local shopping mall (Singer 2006: 3). One key factor is of course working environment; the level of danger that PSCs (and their clients) are exposed to in Iraq requires them to be "better armed, have different equipment, and develop different strategies" (Avant 2006: 330). These differences "make 'guards' look much more like soldiers" and the tasks performed by PSCs appear more related to activities performed by the military than to the operations of security companies in stable environments (ibid.). As this review of security privatisation progresses, it will become evident that the differences and similarities between PSCs and the military are important to the ways in which the market for force in Iraq are described and understood

Returning to the overview of the market, there are of course significant questions concerning the number of companies and security personnel operating in Iraq. In a discussion paper attached to a letter of May 4, 2004 from the then Secretary of Defense Donald Rumsfeld to the Chairman of the House Armed Services Committee, Ike Skelton, it is stated that the CPA (Coalition Provisional Authority) and the MOI (Iraqi Ministry of Interior) have records of 60 PSCs working in Iraq, together employing about 20,000 people (Rumsfeld 2004).<sup>62</sup> According to the paper, eight of the companies have contracts at a total value around \$147 million with the CPA, basically providing three "distinct security services: personal security details for senior civilian officials, non-military site security (buildings and infrastructure), and non-military convoy security" (ibid.).<sup>63</sup> While reliable

<sup>&</sup>lt;sup>62</sup> As Isenberg points out, this figure is unreliable since it does not include companies such as CACI and Titan, both of which were contracted by the DOD to provide interrogators and translators, e.g. in the Abu Ghraib prison (Isenberg 2004: 29, 51ff). Also, out of the 20,000 mentioned in the list from the CPA, about 14,000 were comprised of Iraqi guards working for Erinys under a contract to protect the oil pipelines (ibid: 29).

<sup>&</sup>lt;sup>63</sup> In relation to this document, it is interesting to note the use of the expression "non-military", presumably to dissociate the work of PSCs from that of the military. In order to underline these

figures are notoriously hard to come by, the estimate of about 20,000 people working as "security contractors" in Iraq around 2004 has been quoted by several commentators as an indication of the size of the market for PSCs in Iraq (e.g. Isenberg 2004: 7f, 29; Singer 2004: 4; Avant 2005: 2; also Pelton 2006: 213, 337f).

Nearly two years later, the Director of the Private Security Company Association of Iraq (PSCAI) is said to have estimated the number of PSCs operating in Iraq (as per March 2006) to around 181, together employing just over 48,000 people (GAO 2006: 2). In June 2008, the PSCAI Director estimated that some 50 non-Iraqi PSCs are working in Iraq, employing more than 30,000 people (Elsea, Schwartz and Nakamura 2008: 3). These figures suggest a substantial increase of PSC activity in Iraq between 2004 and 2006, followed by a decrease in the number of companies and personnel between 2006 and 2008. However, the figures should be treated with caution for several reasons. First of all, they are but estimates based on rather sketchy data. No-one knows exactly how many PSCs there are in Iraq at a given point, and figures will of course vary over time according to, for instance, operational needs. Secondly, the DOD letter and attachment cited above employs one particular definition of what constitutes a private security company or service. This definition is not necessarily shared by the PSCAI and the GAO. For instance, the GAO counts static security, personal security details, convoy security and security advice and planning as the services generally provided by PSCs (GAO 2005: 9). Finally, some estimates explicitly exclude Iraqi PSCs while others make no such distinctions, making comparisons over time difficult.

Definitional problems notwithstanding, the number of private security companies and personnel in Iraq is substantial. If the figure of 20,000 people is any guide, it means that together, PSCs constitute a substantial part of the so-called coalition of the willing, outnumbered only by the US.<sup>64</sup> Added to the extent of the phenomena (and indeed adding to the controversy surrounding it) is the fact that many of the persons working for PSCs in Iraq are armed; in particular those who carry out what Singer has labelled "tactical services", i.e. guarding key installations, key individuals

differences, the paper states that the companies "provide only defensive services" (Rumsfeld 2004). Not giving any additional information as to the meaning of "non-military defensive services", the document appears to presume that straightforward distinctions between military/non-military and between offensive/defensive activities can be made. As will be argued below, however, such distinctions are very difficult to maintain.

<sup>64</sup> At the end of May 2005, Britain, the second largest troop contributor to the coalition, had about 8,500 troops in Iraq, down from 8,600 at the end of May 2004 (MOD, Defence Factsheet, 2007). While lumping together all PSCs and their employees provides a good illustration of the scale of this trend, it also deserves to be pointed out that this "member" of the coalition is "not coordinated into one cohesive whole" but consists of a number of individual (and frequently competing) companies providing services to a host of different state or non-state clients (Isenberg 2004: 7f, Appendix 2).

or providing convoy escorts (Singer 2004: 6). Singer estimates that in 2004, around 6,000 of the contractors in Iraq carried out armed roles (ibid.). Other sources have put the number of armed guards working for the US Department of Defense and the US State Department at 8,500 (Spiegel 2007). Four years later, the DOD reported that as per 31 December 2008, it employs a total of 9,952 private security contractors in Iraq, 6,467 of whom are armed (DOD Report, April 2008).<sup>65</sup> To this figure can be added around 1,500 security contractors employed by the State Department, bringing the total estimate of contractors working in Iraq for the US government in late 2007 to over 10,000 (Elsea, Schwartz and Nakamura 2008). With this large number of armed security personnel operating throughout the country, and taking into account the number of highly publicised and often violent "incidents"66 involving PSCs and their employees (for a discussion of some of these, see Chapter 8), the massive amount of attention that security privatisation in Iraq has continued to attract comes as no surprise. The growing medial and political attention in the US, the UK and internationally has meant increasing demands for information about and increased oversight of security contracts and contractors. In turn, this has meant that a number of bodies, particularly in the US, have collected and published information. Through these sources, it is possible to gain some additional insight into the use of PSCs in Iraq.

# 7.1.3. Major Clients and Contracts

As mentioned above, PSC clients are found both among state agencies and private companies. Although no complete record appears to be available, reports by the Congressional Research Service (CRS) cites estimates of about 60 PSCs in total working for the US government in Iraq, around 20 of which are reported to work directly (i.e. not under subcontracts) for the Department of Defense and the State Department (Elsea and Serafino 2007: 3f; Elsea, Schwartz and Nakamura 2008: 4). By comparison, only three companies (ArmorGroup, Control Risks and Garda World/Kroll) in total have been working under contracts with

<sup>&</sup>lt;sup>65</sup> By comparison the DOD employs 2,998 people as security contractors in Afghanistan, 2,745 of whom are armed (DOD Report, April 2008).

<sup>&</sup>lt;sup>66</sup> In terms of "incidents", I am particularly thinking about the alleged involvement of Titan and CACI employees in prisoner abuse at the Abu Ghraib prison in 2003; the killing and mutilation of four Blackwater employees near Falluja in March 2004; the involvement of a number of companies in fire fights at CPA compounds in Najaf and Al Kut in 2004; the case of the so-called "Trophy Video" allegedly showing employees of the British company Aegis firing upon civilian vehicles in 2005; and the involvement of Blackwater personnel in a shooting incident in Baghdad's Nisour Square on September 16, 2007. For some accounts of these events, see e.g. Pelton 2006: 147-165; Isenberg 2004: 25f, 51-67, 75; Isenberg 2008a: Ch. 5; Washington Post, October 5, 2007). Several film clips from the Najaf incident as well as the so-called Aegis "Trophy Video" have also been posted on the Internet (e.g. on Youtube or Google videos).

the UK government in Iraq to protect its civilian personnel (FCO Freedom of information release, November 2006). The US Department of State has contracted three American companies – DynCorp, Blackwater and Triple Canopy – to provide personal protection to its staff under the so-called WPPS I and WPPS II (Worldwide Personal Protective Services) contracts (Griffin 2007; Elsea and Serafino 2007: 6ff). In an unclassified version of the contract (released after a Freedom of Information Act request by the United International Press), the perceived need to contract for protective services is explained thus:

The Bureau of Diplomatic Security is unable to provide services on a long-term basis from its pool of Special Agents, thus outside contractual support is required for emergency protective requirements stated on extremely short notice. (WPPS II Contract)

Under the WPPS contracts, security contractors are said to perform "a narrow range of tactical duties, including protection of foreign heads of state, high-level U.S. officials (including members of Congress), and U.S. diplomats" (Griffin 2007: 4).<sup>67</sup> Besides the actual provision of bodyguards, WPPS contractors are required to perform, among other things, recruiting, screening, vetting and training of applicants for protective services details, planning and management of mobile and static protective details, provision of intelligence data for protective details operations, and provision of translators/interpreters (WPPS II Contract).

Besides the US Department of State (DOS), private security companies have also been contracted through the CPA (up until its closure on June 28, 2004), USAID, and the DOD (GAO 2005). Before its closure, the CPA awarded contracts to several security companies, for instance to secure the Iraqi oil fields (Erinys), to exchange bank notes (Global Risk Strategies), to provide security at Baghdad International Airport (Custer Battles), to train the Iraqi police (DynCorp) and the New Iraqi Army (Vinnell, MPRI) (see e.g. Isenberg 2004; SIGIR 2004). However, the lion's share of security companies and employees operating in Iraq have not been working directly for government agencies but rather on subcontracts DOS and DOD reconstruction contracts. Even though the State Department has released some information on its use of security contractors, basic information about PSCs working directly or indirectly for the DOD in Iraq has only recently (since late 2007) been made public (Elsea and Serafino 2007; Elsea, Schwartz and Nakamura 2008). Of the companies currently working directly for the DOD, the most well documented contract is the one held by the British company Aegis Defence Services Ltd.

Originally awarded by the Department of the Army in May 2004, the contract (known as the RSSS or Reconstruction Security Support Services contract) calls for

<sup>&</sup>lt;sup>67</sup> The assignments for PSCs have included the contract with DynCorp to protect President Hamid Karzai in Afghanistan, and the contract with Blackwater to protect the then head of the CPA, Ambassador L. Paul Bremer III (see e.g. Isenberg 2004; Singer 2004; also Pelton 2006; Scahill 2007).

Aggis to provide "a comprehensive security management team that provides antiterrorism support and analysis, close personal protection, movement and escort security, and security program management" (SIGIR Audit Report, April 2005: 1). Furthermore, the contract requires Aegis to "continuously gather, interpret and expeditiously disseminate information on the security situation throughout Iraq by working in conjunction with military and civilian authorities" and to "provide guidance and coordination for the security planning and protection of the ten major prime reconstruction contractors and their subcontractors" (ibid: 3). This includes providing a number of close protection teams to provide protection to PCO (Project and Contracting Office) personnel, as well as the task to coordinate PSC activities in Iraq, principally through the Reconstruction Operations Center (ROC) (Elsea and Serafino 2007: 8f; Donald 2006: 71f; Kinsey 2006: 105f; Isenberg 2004: 29). According to Aegis CEO Tim Spicer, the company had about 27 escort teams and over a thousand employees in Iraq in mid 2006 (Spicer 2006). In September 2007, Aegis was awarded the so-called RSSS-II Contract, a twoyear contract with the US Army Corps of Engineers as client which is reported to be the single largest security contract in Iraq with its "not-to-exceed" value of \$ 475 million (SIGIR Audit Report, January 14, 2009; Aegis website, April 2008: "Aegis Wins Contract Renewal"; Joint Contracting Command, January 2007). The original RSSS contract and the creation of the ROC system was an important step in the US effort to improve communication and coordination between contractors, security companies and the armed forces. The contract, to which I shall have reason to return, is of central importance because it indicates a willingness and a perceived need to improve the coordination and management of PSCs in Iraq on part of the US and the Pentagon but also – as a matter of fact - a willingness to outsource this function to a private company.

To summarise the discussion so far, we can say that even though reliable data are in short supply, the use of PSCs by reconstruction contractors and government agencies in Iraq is far-reaching in many respects. The market for PSCs in Iraq has grown large enough to support well over a hundred companies and tens of thousands of employees, many of whom carry out armed tasks. On several occasions, government agencies have turned to PSCs from their respective countries to provide protection to embassies and civilian personnel (Donald 2006: 15). However, though national considerations are certainly at play, they are not decisive, as the contracting of Aegis by the DOD clearly demonstrates. In the case of the Aegis contract, the DOD is willing not only to contract out the protection of civil servants and the gathering and processing of intelligence to a private company, but also to award this contract to a non-US company.<sup>68</sup> Apart

<sup>&</sup>lt;sup>68</sup> Aegis is not the only private company providing intelligence services to the US. For instance, in 2007, the US company Abraxas Corporation – founded by the former director of the CIA's Europe division Richard Helms – landed a contract to supply analysts to the First Intelligence Battalion of

from the central questions about the number of companies and the nature of the services they provide, a key issue (for critics and supporters alike) is of course the economic costs associated with the use of PSC services. A short review of some of the available figures is useful to the present discussion because it says something more about the scope of security privatisation as well as the modes of financing the hiring of PSCs.

As noted above, a fairly small number of PSCs operating in Iraq are contracted directly by US or UK government agencies; the vast majority is subcontracted by other private companies. Both "groups" may be financed by state funds, directly or, as is often the case with the latter group of PSCs, indirectly. Starting with companies working directly for government agencies, there are some reports on the costs associated with contracting PSCs that provide illustrative examples. As stated above, the eight CPA contracts in 2004 totalled \$147 million (Rumsfeld 2004). 70 By comparison, the annual cost of the aforementioned WPPS II contract is estimated at over \$519 million for Iraq. Out of the three contractors, Blackwater's share (including Blackwater Aviation) is clearly the largest; their part of the contract is estimated at over \$470 million. Awarded in 2005, the WPPS II contract has a ceiling of \$1.2 billion per contractor, i.e. Blackwater, DynCorp and Triple Canopy, over five years (Griffin 2007: 4, 6). While these figures capture only a portion of PSC work in Iraq, they are enough to support the claim of a billondollar industry. In a 2008 report by the Congressional Budget Office (CBO), it is estimated that the total spending of US agencies and US-funded contractors for private security in the period 2003-2007 ranges between \$6 billion and \$10 billion (CBO Report, August 2008: 13).71 To get a broader image of how security privatisation is being financed in Iraq, and to put the US contracts in perspective, it is instructive to look at the UK government's contracts with PSCs and at the cost for PSC services for the major reconstruction contractors.

the First Marine Expeditionary Force (Isenberg 2008a: 71).

<sup>&</sup>lt;sup>69</sup> Certainly, these "groups" are not distinct; one PSC may certainly be contracted directly by a state agency while at the same time working as a subcontractor to, say, an engineering company in the reconstruction programme. The distinction between the two groups is purely analytical.

<sup>&</sup>lt;sup>70</sup> In a quarterly report from July 2004, SIGIR (Special Inspector General for Iraq Reconstruction) lists 5 contracts with the CPA, total value of around \$185 million (SIGIR 2004). The largest of these contracts was the \$109,649,725 contract with Erinys Iraq to secure oil fields and pipelines. The same report also lists 5 contracts issued by the Army Contracting Office (one of which is the \$292 million contract with Aegis) valued at over \$480 million (ibid.).

<sup>&</sup>lt;sup>71</sup> Breaking down the total of \$6 billion to \$10 billion in the period 2003-2007, the Congressional Budget Office estimates that the direct cost to the US government was between \$3 billion and \$4 billion (between \$500 million and \$1.2 billion annually), while indirect costs – i.e. costs for private security incurred by subcontractors to the US government – ranged between \$3 billion and \$6 billion (CBO Report, August 2008: 13f).

In terms of security privatisation, the approach of the US and the UK differ widely in terms of both size and scope of contracts. Of course, differences are to be expected considering the substantial difference in British and American involvement in Iraq in the first place. Even so, a simple comparison is of interest to the present discussion. In the UK, the total cost for PSC contracts in Iraq issued by the FCO between May 2003 and June 2006 was £121,472,836 or nearly \$200 million (FCO 2006). On October 7, 2007, David Milliband, the Secretary of State for Foreign and Commonwealth Affairs, stated that the costs for the FCO and "certain other Government Departments" for private security companies in Iraq between 2003 and 2008 amounts to £192 million or around \$300 million (House of Commons, Hansard Written Answers, 8 October 2007). Another perhaps more substantial difference is that unlike its US counterpart, the British Ministry of Defence (MOD) has no contracts with private security companies in Iraq, nor does it have any plans for such contracts, according to Des Brown, the Secretary of State for Defence (House of Commons 22 October 2007).

As indicated above, the majority of security contracts are not primary contracts with government agencies but subcontracts with reconstruction companies. Because some contractors do not track security costs and because information of such contracts is proprietary and not public, access to details on security subcontracts is severely limited. Still, there are some estimates of the costs involved. In a 2007 SIGIR investigation, nine major US contractors were asked to report costs incurred for security services (SIGIR, January 2007).<sup>74</sup> All nine replied to the survey, and the average percentage of security costs to total costs was 12.5% (ibid.). Extrapolating from these figures, a House Committee report estimates that about \$3.8 billion – or 12.5% out of a total of \$30 billion of federal

<sup>&</sup>lt;sup>72</sup> The UK Department for International Development (DFID) has also hired PSCs to provide protection for its personnel in Iraq. Since 2004, these contracts are managed by the FCO, which means that DFID uses the same three companies (Kroll/Garda World, ArmorGroup and Control Risks) as the Foreign Office. The total cost incurred by DFID for security services since June 2004 amounts to £38.2 million or about \$78 million (House of Commons Hansard Written Answers, 19 March 2007).

<sup>&</sup>lt;sup>73</sup> One reason for this difference in attitude to, and use of, PSCs by the British government is most likely linked to the negative images among British officials of individual companies and the security industry in general, for instance as a result of much publicised involvement of Sandline International in the war in Sierra Leone in the late 1990s (e.g. Kinsey 2006: Ch. 4; also Musah 2000).

<sup>&</sup>lt;sup>74</sup> The nine contractors included in the survey was: Bechtel National Inc.; FlourAMEC, LLC; Kellog, Brown & Root Services, Inc.; Lucent Technologies; Parsons; Parsons Iraq Joint Venture; Perini Corporation; Washington International/Black & Veatch; and Washington International, Inc. In terms of security services included in the investigation, the Inspector General report states that "[s]ecurity costs include, but are not limited to:" personal security details; construction site protection; living area protection; security to support convoy or other types of travel; and security-related intelligence operations" (SIGIR, January 2007).

funds spent on the reconstruction – was paid by reconstruction contractors for security services (House Committee on Oversight and Government Reform, February 2007: 2; see also GAO 2005; CBO Report, August 2008: 14).

On a general level, PSCs can be said to deliver a number of services directly or indirectly to state agencies that are conventionally associated with actors such as the police or the military. The large players, such as Blackwater, DynCorp, ArmorGroup, Aegis, Triple Canopy and Control Risks, are mainly of American or British origin, even though their employees are often Iraqi, but also Fijian, Chilean, Nepalese, South African, Swedish, French or Ukrainian (Avant 2006; Singer 2006; Isenberg 2004: 23; Interview 01E1). Of course, there are a number of PSCs operating in Iraq that work neither directly nor indirectly for the US or UK governments. For instance, there is a growing number of Iraqi PSCs who work for domestic clients, but these are slightly outside the scope of the present discussion. Again, the point here has been to provide an overview of the nature and scope of security privatisation, as well as an introduction to the major providers and clients. Before elaborating on what major patterns and changes can be identified in the case of Iraq and what these might entail, a few words on the regulatory environment for PSCs in Iraq are called for.

## 7.1.4. Issues of Regulation

This final part of the overview of security privatisation in Iraq concerns some of the major aspects of the regulatory framework for PSC activities. In essence, this discussion will touch upon central issues and changes concerning the regulation of PSCs in Iraq, the US and the UK, and, to a lesser extent, internationally. Beyond providing a general understanding of how PSCs are regulated in relation to the case of Iraq, one important point here is to say something about the areas or activities that are not regulated or where regulation has been left in the hands of the security companies and their business organisations. Investigating issues of regulation will also feed into the subsequent discussion about privatisation patterns and the difficulties of drawing clear lines between public and private responsibilities and control. It deserves to be stressed that the aim here is to investigate the most central issues relevant to the case of Iraq, not to produce a comprehensive outline of the legal status of PSCs in general, 75 or to cover the

<sup>&</sup>lt;sup>75</sup> Much has been written in the past decade about the problems of, and prospects for, international and national regulation of private military/security companies. There are many important (and largely unresolved) questions about the ability/inability of international humanitarian law (IHL) to define or encompass the work of PSCs, the legal status of PSCs in different countries, the possibilities of constructing regulatory frameworks on national, international and regional levels, and the prospects of investigating and prosecuting suspected crimes committed by PSCs or their personnel (for some discussions of these issues, see e.g. Zarate 1998; Vines 2000; Beyani and Lilly 2001;

whole spectrum of contract provisions, acquisition regulations and departmental instructions that do (or could) apply to PSCs (for a discussion of some of these issues, see e.g. Dickinson 2007; Isenberg 2008a: 146ff; GAO July 2008; Elsea, Schwartz and Nakamura 2008). The point of departure for the following paragraphs is in the documents produced by the CPA during its mandate period between 21 April 2003 and 28 June 2004.

## Rules and regulations under the Coalition Provisional Authority

During the organisation's period in power, the CPA essentially established the legal framework for PSCs operating in Iraq (Isenberg 2007: 85). In a Public Notice issued on June 26, 2003, it is stated that in "accordance with international law, the CPA, Coalition Forces and the military and civilian personnel accompanying them, are not subject to local law or the jurisdiction of local courts" (CPA Public Notice, 26 June 2003). Instead, they "will remain subject to the exclusive jurisdiction of the State contributing them to the Coalition" (ibid.). In CPA Order Number 17, as revised June 27 2004, it is further specified that "[c]ontractors shall not be subject to Iraqi laws or regulations in matters relating to the terms and conditions of their Contracts" and that they are "immune from Iraqi legal process with respect to acts performed by them pursuant to the terms and conditions of a Contract or any sub-contract thereto" (CPA Order Number 17).<sup>76</sup>

In addition, CPA Order Number 3, issued on December 31, 2003, identifies persons authorised to possess and use firearms. In this document, it is stated that private security companies "may be licensed by the [Iraqi] Ministry of the Interior to possess and use licensed Firearms and Military Weapons ... in the course of their duties, including in public places" (CPA Order Number 3). Furthermore, CPA Memorandum Number 17, issued on June 26 2004, outlines registration requirements for PSCs as well as rules for the use of force by contractors in Iraq. According to the Memorandum, PSCs must obtain a business license issued by the Iraqi Ministry of Trade (MOT) and an operating license issued by the Iraqi Ministry of Interior (MOI). The Memorandum also specifies that all armed PSC

Nossal 2001; Whyte 2003; Walker and Whyte 2005; Kinsey 2005a; Kinsey 2005b; Holmqvist 2005; Caparini and Schreier 2005; Percy 2006; O'Brien 2007; Isenberg 2007; Doswald-Beck 2007).

<sup>&</sup>lt;sup>76</sup> Two definitions are of some interest here. According to CPA Order 17, contractors are "non-Iraqi legal entities or individuals not normally resident in Iraq, including their non-Iraqi employees and Subcontractors not normally resident in Iraq, supplying goods or services in Iraq under a Contract". Private security companies are "non-Iraqi legal entities or individuals not normally resident in Iraq, including their non-Iraqi employees and Subcontractors not normally resident in Iraq, that provide security services to Foreign Liaison Missions and their Personnel, Diplomatic and Consular Missions and their personnel, the MNF [Multi-National Force] and its personnel, International Consultants and other Contractors".

personnel must carry a weapons card issued by the Iraqi MOI. PSC personnel may use force in self defence, in defence of persons as specified by their contracts, and to prevent life threatening offences against civilians (CPA Memorandum Number 17: esp. Sections 1, 2, 6 and Annex A). Finally, before it dissolved on 28 June 2004, the CPA issued Order Number 100, where it is stated that "the laws, regulations, orders, memoranda, instructions and directives of the CPA remain in force unless rescinded or amended" (CPA Order Number 100). This means, for instance, that Order Number 17 which grants PSCs immunity from prosecution remains in force until superseded by Iraqi law (Elsea and Serafino 2007: 15; Isenberg 2004: 45ff).<sup>77</sup>

Although the CPA laid down some rules and regulations that covered aspects of PSC activities, much of the responsibility for dealing with security contractor was left in the hands of sending states and state agencies such as the DOD. Although state agencies did issue instructions and requirements for contracting, it appears as if the massive increase in the demand for private security in Iraq in 2003 and 2004 caught both state agencies and reconstruction contractors off guard. In relation to this situation, Donald observes how

many of the prospective clients – government and commercial – had never contracted security services before, had no contacts in the sector, had little idea of what was on offer and were ready to pay what they were asked. Often, the client's lack of experience meant that he would opt for the first provider he came across. (Donald 2006: 15)

As will be shown in the next chapter, this inexperience among many government and private clients – especially in the early phase of the conflict – resulted in insufficiently specified and inflexible contract requirements as well as problems of screening of personnel and contract oversight in the field.

Since the initial surge in the demand for private security, state regulation has changed but it certainly remains the case that there is a lack of clarity surrounding the legal status of private security companies and their employees (Avant 2006: 338). One characteristic of this situation seems to be not a shortage of laws and regulations on the national and international levels, but an inability of existing instruments to encompass the whole spectrum of PSC activities (Isenberg 2004: 45; Doswald-Beck 2007). Contrary to what is sometimes argued, it is not the case that PSCs operate entirely outside national and international laws. Rather, the point is that many of these laws – and particularly in the case of international

<sup>&</sup>lt;sup>77</sup> Following the much-publicised involvement of Blackwater employees in a shooting incident in the Nisour Square in central Baghdad on September 16, 2007, the legal status of PSCs in relation to Iraqi law has become a pressing issue. The Iraqi government is working on legislation that will make PSCs subject to the country's criminal laws and during the renegotiation of the agreement on US military presence in Iraq, the issue of immunity for military personnel and contractors has been subject to much debate (*BBC News*, 25 September 2007; *CNN*, September 19, 2008).

law – were designed primarily to deal with national militaries or individual mercenaries, not commercial entities providing armed services in conflict zones (for discussions on the applicability of various parts of international law, see the so-called "Montreux Document" in UN doc. A/63/467–S/2008/636). As late as October 2007, US Secretary of State Condoleezza Rice commented that "[t] here is a lacuna in the law and we ... would like to get appropriate legislation that speaks to the prosecution of contract personnel working in circumstances like Iraq" (House Committee on Oversight and Government Reform Hearing, October 25, 2007). Thus, compared to the actual use of PSC services, the process of placing the companies under national and international legal authority has been lagging behind. With these observations in mind, the following paragraphs will consider some basic aspects of domestic regulation in the US and the UK.

## Domestic regulation in the US: ITAR, UCMJ and MEJA

As Sarah Percy observes, the regulation of PSCs in the US consists of two main components: first, there is a licensing system whereby potential contracts with PSCs are scrutinised and, secondly, there is a set of laws that govern the prosecution of security contractors for crimes committed abroad (Percy 2006: 25). Essentially, PSC services are licensed through the same system as the sale of arms and other defence services (ibid: 26). Licensing procedures and policies are set out in the International Traffic in Arms Regulations (ITAR), which in turn is part of (and implements) the Arms Export Control Act (ACEA). Simply put, a company wishing to sell defence services<sup>78</sup> abroad has to register with and be licensed by the State Department's Directorate of Defense Trade Controls (DDTC) (Avant 2005: 149ff; Caparini 2007: 159ff). This means, for instance, that an American PSC wishing to deliver military training to another state's armed forces needs to go through the ITAR licensing system. The DDTC – sometimes together with other federal offices – will then review the company's contract proposals "to ensure that the entity applying for the license is legitimate and reliable, and that

<sup>&</sup>lt;sup>78</sup> A defence service is defined in the ITAR as the "furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; (2) The furnishing to foreign persons of any technical data controlled under this subchapter (see § 120.10), whether in the United States or abroad; or (3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice" (ITAR, official version). Avant points out that the ITAR clause on services was originally intended to "license the kind of training that frequently went along with the sale of complex weapons systems" but that it also provided "a convenient regulatory structure... as security services boomed" (Avant 2005: 149).

the proposed export will not undermine US policy" (Caparini 2007: 160).

However, licensing under ITAR is not a comprehensive tool for regulating PSCs. First of all, as several commentators have pointed out, there is a lack of transparency in the licensing process, as well as a lack of oversight of granted licenses. For instance, while embassy officials in the contracting country are tasked to oversee activities of companies, this system appears incapable of meeting the increasing demands for oversight. This is perhaps especially true in a case like Iraq, where the number of companies is very large and the environment highly unstable, thus making effective oversight by embassy officials an almost insurmountable task. Secondly, only when proposed contracts or exports exceed a value of \$50 million is the State Department required to notify Congress. Contracts may be written to avoid this limit and the greater scrutiny and lengthier review processes that may result from Congressional notification (Avant 2005: 151; Percy 2006: 26ff; Caparini 2007: 162ff).

Moving on to the other main component of regulation in the US, there are two important pieces of legislation that are relevant to the present discussion, namely the Uniform Code of Military Justice (UCMJ) and the Military Extraterritorial Jurisdiction Act (MEJA). Essentially, the UCMJ outlines procedures for prosecuting members of the military in case they commit a crime abroad (Isenberg 2007: 93). Up until January 1 2007, the Code only applied to civilians (e.g. contractors) "serving with or accompanying an armed force in the field" and only "in time of war" (UCMJ, 10 U.S.C. § 802(a)(10), prior to amendment on January 1, 2007). The provision "in time of war" has generally been taken to mean a war officially declared and not only authorised by Congress (GAO 2006; Isenberg 2007: 93; Elsea and Serafino 2007: 20f). To close this gap in the Code, the amendment (through § 552 of the John Warner National Defense Authorization Act for Fiscal Year 2007) applies UCMJ provisions to declared wars or contingency operations (Elsea and Serafino 2007: 20). One interpretation of this change is that it subjects civilian contractors (including PSCs) to the authority of the UCMJ in cases such as Iraq, where no formal declaration of war has been made.

The possible application of the UCMJ to PSCs in cases like Iraq has been seen as a way of potentially bringing security contractors under US military jurisdiction. The author of the amendment to \$802(a)(10), Senator Lindsay Graham, stated

<sup>&</sup>lt;sup>79</sup> According to 10 U.S.C. § 101(a)(13) "The term "contingency operation" means a military operation that — (A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301 (a), 12302, 12304, 12305, or 12406 of this title, chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress" (available at: http://www4.law.cornell.edu/uscode/10/101.html, accessed 22 Nov. 07).

that the change would give "military commanders a more fair and efficient means of discipline on the battlefield" (L. Graham Press Release, June 26, 2006). This would mean that the military's ability to control contractors such as PSCs would increase. However, the applicability of the UCMJ to PSC operations is far from straightforward. Firstly, it is unclear whether persons not working under DOD contracts can be seen as "serving with or accompanying" US forces. Secondly, it has been pointed out that subjecting civilians to military jurisdiction and court-martials might be considered unconstitutional and a violation of the right to a fair trial and trial by jury. The changes to the UCMJ are yet to be tried and the DOD have not yet (as per July 2007) issued any guidance on how the new law is to be interpreted (Elsea and Serafino 2007: 21ff; Singer 2007a; Singer 2007b: 11f).

A second important legal instrument that is being discussed in the literature on PSCs is the Military Extraterritorial Jurisdiction Act of 2000 (MEJA). The act was passed "in order to ensure that non-military personnel associated with the American military abroad could be prosecuted in the United States for crimes in situations where the host nation was unable or unwilling to do so" (Percy 2006: 28). Basically, the act covers criminal offences committed by persons "while employed by or accompanying the Armed Forces outside the United States" as well as some members of the armed forces (MEJA, 18 U.S.C. §3261). The MEJA covers only offences that would "constitute an offence punishable by imprisonment for more than 1 year" if the crime had been committed within US jurisdiction (ibid.). Because it gives US federal courts legal authority over persons who commit crimes while under contract with the US government, MEJA has been seen as tool for prosecuting PSCs that violate the law (Avant 2006: 228f). However, MEJA was not constructed to deal with security contractors, but rather to allow for the prosecution of civilians working for and accompanying the US military abroad, including family members of service persons (Percy 2006: 28; Avant 2005: 234 n. 54). Because the MEJA was not designed specifically with PSCs in mind, it has proven difficult to apply to the situation in Iraq. For instance, MEJA originally applied to civilians working directly for the DOD as well as DOD contractors (and subcontractors) and their employees (Isenberg 2004: 65f; Percy 2006: 28f). In relation to the situation in Iraq, this was clearly problematic since far from all PSCs were DOD contractors. This situation changed in October 2004 when the act was amended so as to include contractors and employees of contractors of "any other Federal agency, or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas" (MEJA, 18 U.S.C. §3267(1)). In spite of these changes – no doubt designed to improve the application of MEJA in cases of contractor misbehaviour – only one contractor so far has been successfully prosecuted under MEJA.<sup>80</sup>

<sup>&</sup>lt;sup>80</sup> In May 2007, a former employee of L-3 Communications (parent company of MPRI) was sentenced to 41 months in prison for possession of child pornography. In a press release from

To close remaining loopholes, the so-called MEJA Expansion and Enforcement Act of 2007 (H.R. 2740) was introduced by Congressman David Price in June 2007 (MEJA Expansion and Enforcement Act of 2007). In the text of the legislation, the language on contractors is specified so as to include persons who are employed under a contract "awarded by any department or agency of the United States" and where "the work under such contract is carried out in an area...where the Armed Forces is conducting a contingency operation" (ibid.). Furthermore, the MEJA Expansion and Enforcement Act requires the Inspector General of the Department of Justice to report to Congress on violations and prosecutions involving contractor personnel, and it requires the FBI to ensure that there are enough staff to conduct investigations into alleged violations by contractor personnel (ibid.). The bill passed a vote in the House of Representatives on October 4, 2007 (389 Ayes, 30 Nays, 13 Present/Not voting) but has yet to pass through the Senate (GovTrack 2007; Elsea, Schwartz and Nakamura 2008; GAO July 2008). 81

From this basic survey of domestic regulation in the US, three highly important points can be made. Firstly, it appears as if the actual use of private security companies has preceded the development of regulatory mechanisms to control them and to punish unwanted behaviour. In other words, legislation has in many ways been reactive rather than proactive. Secondly, since the onset of the war in Iraq in 2003, substantial changes have been made to improve the regulation of PSCs operating under contracts (or subcontracts) to the US military or other government agencies. The process of closing loopholes in existing laws and introducing new legislation to deal with PSCs has gained even greater momentum in the aftermath of the involvement of Blackwater personnel in a shooting incident in Nisour Square in central Baghdad on September 16, 2007 (discussed further in Chapter 8). Thirdly and finally, as the overview above indicates, there are various US laws that could theoretically be applied to PSCs and their employees. However, as Caparini observers there are serious problems of enforcement, partly because of the ambiguities and uncertainties that surround existing legislation (Caparini

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the United States Attorney's Office Eastern District of Virginia stated that the person convicted "collected child pornography from the Internet while employed as a civilian contractor accompanying U.S. Armed Forces at the Baghdad Central Confinement Facility...in violation of federal law" (United States Attorney's Office Eastern District of Virginia, Press Release, May 25, 2007). The press release also states that the person "was prosecuted in the Eastern District of Virginia under the authority of the Military Extraterritorial Jurisdiction Act" (ibid.).

Apart from the UCMJ and the MEJA, Isenberg also mentions the introduction of DOD instruction 3020.41 in October 2005 (Isenberg 2007: 89). The instruction clarified the legal status of civilians hired to support US forces and explained under what circumstances contractor personnel can be armed and use force (ibid.). The instruction is available at the "Contractor on the Battlefield Resource Library" at the US Army Sustainment Command: http://www.afsc.army.mil/gc/battle2. asp, accessed 22 Nov. 07.

2008: 182f). To place this overview of regulation in the US in perspective, the following paragraphs will look at some of the central features of the regulatory environment in the UK.

## Domestic Regulation in the UK: the Green Paper and Beyond

In sharp contrast to the far-reaching regulation of PSCs in the United States, the UK government "has yet to implement any legislation in this area" (Kinsey 2005b: 291). While there are laws that prohibit the unauthorised enlistment of British subject in foreign armies (the Foreign Enlistment Act of 1870), laws that target weapons training etc. as part of terrorism activities (the Terrorism Act) and regulations to prevent illegal trafficking and brokering in arms and military equipment (Export Control Act of 2002), none of these target PSCs specifically and comprehensively (Walker and Whyte 2005: 654ff). Much of the older domestic legislation is, as Kinsey puts it, "simply out of date...[and] does not account for the activities of PMCs or is simply deficient in legal terms to define and regulate the industry" (Kinsey 2006: 136; also Percy 2006: 34ff). The lack of domestic legislation in the UK does not mean, however, that the subject has not been on the political agenda.

Quite on the contrary, the issue of regulating PSC activities has – at least periodically – been the subject of substantial and sometimes heated debate since the 1990s, when the issue was placed centre stage following the involvement of the British self-proclaimed military company Sandline International in Sierra Leone and the so-called "arms to Africa affair" (for one account, see Kinsey 2006: Ch. 4). The 1998 Report of the Sierra Leone Arms Investigation (the so-called Legg Report) found a number of causes for concern for the UK government. In a complementary report published in early 1999, the Foreign Affairs Committee of the House of Commons recommended the publication of a Green Paper "outlining legislative options for the control of private military companies which operate out of the United Kingdom" (House of Commons, Foreign Affairs Committee 2<sup>nd</sup> Report, February 1999). The Green Paper – to date the only major development in terms of UK regulation – was eventually published in February 2002.

In the foreword to the Green Paper entitled "Private Military Companies: Options for Regulation", the Foreign Secretary Jack Straw states that because the control of violence is one of (or perhaps even *the*) fundamental issue in politics, the export of "private military services" is to be taken very seriously (Foreign and Commonwealth Office, the Green Paper, 2002: 4). At the same time, Straw observes, the demand for these companies' services is likely to increase, and because they might have a role to play in cases where the international community is unwilling or unable to act, there are reasons to consider a licensing

regime through which it will be possible to distinguish between "reputable and disreputable private sector actors" (ibid: 5). Basically, however, the Green Paper does not propose policy; rather, it outlines six possible alternatives or options for regulating PSCs/PMCs and provides arguments for and against these options. The six options outlined in the Green Paper are:

- 1. A ban on military activity abroad;
- 2. A ban on recruitment for military activity abroad;
- 3. A licensing regime for military services;
- 4. Registration and notification;
- 5. A general license for PMCs/PSCs; and
- 6. Self-Regulation: a Voluntary Code of Conduct (ibid: 22-26)

A few months after the publication of the Green Paper, the House of Commons Select Committee on Foreign Affairs produced a report in which a number of recommendations pertaining to regulation were made. For instance, the report recommended that the UK government consider US regulation and monitoring mechanisms; that private companies "be expressly prohibited" from participating in combat operations; that each contract for "a military/security operations overseas" should be subject to a separate license; that the companies should be required to obtain a general license before engaging in activities overseas; and that as part of the application for registration, companies be required to disclose "in some detail the company structures, the experience of permanent personnel, recruitment policies, and other relevant information" (House of Commons, Foreign Affairs Committee 9th Report, July 2002). In response to these suggestions, the Foreign Secretary stated that the government will look into regulation in the US and other countries and that the recommendations concerning the use of force and licensing regimes will be taken into consideration (Foreign and Commonwealth Office, Response of the Secretary of State for Foreign and Commonwealth Affairs, October 2002).

Yet, since the government's response to the Foreign Affairs Committee Report, "no major policy decision has been taken concerning the regulation of PSCs" and none of the options outlined in the Green Paper have been decided on (Kinsey 2005a: 86). It appears as if the process in the UK has "stalled" and that the future of the process is unclear (Percy 2006: 33). However, there are indications that discussions are ongoing in the British government. For instance, in a reply to an email action in 2006 by the organisation War on Want concerning the regulation of private security companies, the FCO replied:

As you are aware, there is currently no UK legislation dealing directly with the provision by British companies of security and military services overseas. [...] The foreign Secretary requested a further review of the options for regulation in late 2004. The review was completed in mid 2005 and its findings are currently the subject of ministerial correspondence. Once government reaches a decision on whether or not to pursue regulation, parliament will be informed. If it is agreed that regulation is appropriate, the government will come forward with proposals which will be subject to public consultation. If legislation were required, parliamentary time would have to be secured. (War on Want 2006, J. Currie / FCO Reply to email action).

This statement is interesting in several respects, particularly because it does not rule out the possibility of *not* regulating the industry in the future. Not doing anything basically means, as Kinsey points out, that while "UK PSCs are free to operate as they see fit, the UK government can only look on since it has no jurisdiction over their actions" (Kinsey 2005b: 292). Judging from the FCO reply to War on Want, it seems as if the UK government might not necessarily want to change the current situation. This is so, the FCO argues, because

[t]here are already a number of provisions in international humanitarian and human rights law which apply to the operations of PMSCs [Private Military and Security Companies], as well as the national law in countries in which they are operating. We work with the British Association of Private Security Companies and PMSC representatives to encourage best practice and adherence to these standards. (*War on Want* 2006, J. Currie / FCO Reply to email action)

In relation to this statement, three important observations can be made. Firstly, scholars of international law would most likely raise concerns about the problems of applying many provisions of international law to PSCs, rather than stating that there are provisions that do apply, even if this is also the case (e.g. Walker and Whyte 2005; Doswald-Beck 2007). Secondly, as was shown earlier, the applicability of US and UK legislation in countries like Iraq not a straightforward matter. Thirdly and finally, the FCO states that it works with the British Association of Private Security Companies (BAPSC), indicating that the UK government is willing to rely at least partially on a certain measure of self-regulation by the industry (as outlined in the Green Paper).<sup>82</sup>

<sup>&</sup>lt;sup>82</sup> Apart from the letter to War on Want, discussions seem to have focused on the possibility of combining several options outlined in the Green Paper. One such combination would entail a system of self regulation together with a licensing regime for companies and/or services. While discussions in the ministries are ongoing, there is apparently not yet enough political momentum to push legislation forward (Interview, Anonymous 05, 2007).

The reliance on self-regulation is an important part of the regulation of PSCs in both the UK and the US. The recently established (February 2006) BAPSC, just like the US-based trade organisation, the IPOA (International Peace Operations Association, established in 2001), have their members sign codes of conduct or codes of practice to ensure behaviour in compliance with, for instance, international humanitarian law (IHL), to establish comprehensive vetting procedures, and to abide by other standards promoted by the organisations (Percy 2006: 58; Bearpark and Schulz 2007: 247ff; BAPSC website: www.bapsc.org.uk; IPOA website: www.ipoaonline.org). In the case of the BAPSC, self-regulation has been described as one way of making up for the absence of national and international regulation and as a "stepping stone to comprehensive regulation through legislation" (Bearpark and Schulz 2007: 249). I shall have reason to come back to the views of these organisations later; for now, it suffices to point out that they play a role as an alternative or private source of regulation of PSC behaviour in the US, the UK and, to some extent, internationally.

To sum up the discussion on regulation on the national level, we might say that in both the US and the UK, the regulation of PSC activities is complex. While there are existing regulatory mechanisms (to different extents) in both states, it appears as if processes of creating comprehensive and up to date systems of regulation are slow moving. While the reasons behind the problems of creating functional regulation are many, one important aspect is the fact that because these are private companies, they fall outside the conventional distinctions between state and nonstate actors and responsibilities around which related legislation (e.g. concerning the military) has been created. Even so, there have been changes over time - not least in the case of the US, where the desire to increase (democratic) control and jurisdiction over PSCs is clearly visible in the changes made to the UCMJ and the MEJA. By contrast, the British government has not made time in Parliament for the process of creating new regulation for PSCs, even if there has been no lack of debate on the subject since the late 1990s. In the British case, it has been suggested that while there is some political interest in regulation, the creation and implementation of a new system of regulation and oversight is simply seen as too costly (Interviews, Anonymous 03, 2006 and Anonymous 05, 2007; cf. Dickinson 2007). The lack of comprehensive regulation (and thereby some measure of legitimacy associated with regulation) has been important for the creation of trade associations in the US and the UK. While their status as regulatory bodies could (and should) be discussed at length, the organisations appear as partial alternatives

<sup>&</sup>lt;sup>83</sup> The term self-regulation is indeed problematic when it comes to PSCs. Members of business organisations such as the BAPSC or the IPOA have signed comprehensive agreements on ethics and codes of conduct, which is good, but the organisations also depend on their members for their existence, thus creating a dilemma. If members are excluded because they misbehave, the organisation loses a source of funding.

to state regulation. Finally, problems of insufficient regulation have not prevented the use of the companies' services in cases like Iraq by the US or the UK. Taken together, the discussions and descriptions of the use and regulation of private companies serves as a good basis for identifying and analysing the major privatisation patterns in Iraq; the task of the following section.

# 7.2. Privatisation Patterns: A Shifting Mix of Public and Private

What has been said so far has given some indications as to what is being privatised in the case of Iraq and how privatisation processes have developed over time. The task of this section is to see how these instances of privatisation can be put together into general patterns and what these patterns can add to the understanding of the dynamics of privatisation in Iraq and possibly beyond. To recap, the theoretical model provides three basic categories of privatisation that may be combined in different ways and thus create different patterns of privatisation. Following Lundqvist, regulation is here taken to mean state regulation of the producers, as well as the regulation of the quality and quantity of goods or services, while financing concerns the actual payment for a good or service. Finally, production refers to the "ownership and management of the means of production over preparation of the product to its final delivery to the consumer" (Lundqvist 1988: 14). In the taxonomy (Figure 3.2.), eight hypothetical patterns of privatisation are outlined, ranging from the left diagonal which indicates a state monopoly proper to the right diagonal which indicates a fully privatised activity or function. In between, there are six more alternatives. Once again, it cannot be stressed enough that while the taxonomy makes clear distinctions between public and private, these divisions often do no hold empirically. Rather, the empirical reality frequently displays a mix or blurring of public and private actors and responsibilities. As will be shown below, the privatisation of security in Iraq is a clear example of such blurred distinctions, making the question of state control more complicated.

Even a brief glance at the use of private companies in Iraq is enough to suggest that all three "types" of privatisation are represented and, more importantly, they are clearly mixed. As a consequence, it makes sense to speak of general patterns of privatisation rather than trying to isolate and measure the degree of clear-cut instances (or situations) of this or that particular type. Focusing on the question of who the companies work for, there seems to be two broad patterns of privatisation in Iraq that can be discussed further. The most obvious patterns is the large number of different military and security services that are produced by private companies but financed by American or British state institutions. Here, a number of companies (e.g. Triple Canopy, Blackwater, DynCorp, ArmorGroup, Control Risks and Aegis) provide security services under primary contracts with state agencies such as the FCO or the US Departments of State or Defense. The second general pattern is represented by the huge number of private companies

producing protective services for other companies or contractors in different reconstruction projects. These services may be financed by private funds (i.e. by the consumers) or indirectly through public funds. In this case, a large number of private companies are contracted by reconstruction contractors who are in many cases responsible for their own security (GAO Report 2005, SIGIR January 2007; House Committee on Oversight and Government Reform, February 2007).

In relation to both of the suggested patterns, the issue of regulation appears the most unclear and does not suggest any straightforward answer. Upon closer inspection, however, this seems to be the case not only with regulation, but to some extent in relation to financing and production as well. To explain this line of reasoning, the following subsections will turn attention once again to the three dimensions of privatisation as outlined in the taxonomy. Through this discussion, the suggested patterns will appear less clear-cut and the dividing lines between public and private less sharp. In this context, one could (and should) of course question the usefulness of the concept of privatisation and the suggested taxonomy. As indicated above, the concept of privatisation has many limitations; the implied or assumed distinction between public and private is one of them. Yet it is by applying the concept and by revealing some of the inherent contradictions and irregularities, and thus showing the limits and the usefulness of the theoretical model, that the nature of (security) privatisation in the particular case of Iraq can be understood and related to the question of state control.

# 7.2.1. Regulation

As shown above, the issue of regulation is complex and ambiguous. While some parts of private security are regulated on the national level, important aspects of the companies' behaviour, as well as the relationship between the companies and other actors (e.g. the armed forces) remain to a large extent unregulated. In addition several elements of existing regulation have been described as ambiguous, impractical, or simply out of touch with the realities of PSC activities (Percy 2006; Kinsey 2006; Leander 2007). Another point is that existing regulation is ineffective because of problems of oversight and enforcement. In this context, Isenberg observes a possible connection between the difficulties of investigating suspected crimes in war zones and the apparent lack of interest in pursuing legal processes among US prosecutors (Isenberg 2007).

In the case of Iraq, the regulation of PSCs has moved towards more structured regulatory regimes in the US and, to some extent, in Iraq. One may also argue that the creation of the BAPSC in 2006 has meant some increase in the regulation of British companies (basically for those who are members of the organisation). The major shifts, however, have occurred in the US, where the public use of PSCs in Iraq is the most extensive. The efforts to increase regulation and oversight is a sign

of re-regulation (or de-privatisation) of services that were formerly unregulated or that came to be seen as insufficiently regulated. In Britain, no major changes have taken place, and the market remains to some extent unregulated. Accepting the argument that government inactivity may in fact have the same effect as transferring responsibility to the private realm, the stalled regulation process in Britain is a sign of inactivity and an expression of a level of de-regulation (or no regulation) that has remained largely unchanged over the past five years.

Above, it was also pointed out that both the American and British governments have proved willing to rely on a certain amount of self-regulation by the industry and the companies, for instance through standards and rules outlined by organisations such as the IPOA, the BAPSC and, in the case of Iraq, the PSCAI. The fact that state actors accept and/or promote self-regulation by the industry is also indicative of a certain measure of de-regulation; aspects of the regulation of the producers (i.e. the companies), as well as the regulation of the quality of services (e.g. determining the quality of personnel through vetting procedures) are left in the hands of companies and/or their business organisations. As we shall see in the next chapter, this feature of privatisation (i.e. de-regulation) is closely linked to a number of questions of state control and the civil-military balance. Lastly, considering the differences between the regulatory environment in the US and in Britain, as well as the changes that have taken place since the onset of the conflict, it becomes very difficult to generalise about de-regulation or re-regulation in the case of Iraq. Again, inactivity or inability on part of governments can have the same effect as conscious policies and may thus result in privatisation. In relation to regulation, this is an important point to bear in mind, since doing nothing or fairly little in terms of regulating the market on a national level appears to be a general feature in the case of Iraq. Essentially, this means that a lack of state regulation has opened up for private regulation instead. It should be added, however, that in relation to the US – again the largest consumer on the state level – there are also clear indications of change towards some form of re-regulation. In the end, we may conclude that in the case of Iraq, regulation displays a shifting combination of public and private, something which makes it difficult under certain circumstances to assign responsibility and, presumably, makes efforts to control the activities of PSCs more complicated.

# 7.2.2. Financing

Hypothetically, there are several ways in the financing of a service or a good can be organised. The state can subsidise a service by using public funds to lower the price or even offer it for free, or the cost can be carried by the consumers themselves (Lundqvist 1988: 14; LeGrand and Robinson 1984: 4f). In the case of security services in Iraq, it appears very difficult to generalise (to the level of the case) and, just as with regulation, financing consists of a mix of public and

private that appears to differ slightly between the two suggested patterns. While this distorts the image of clear-cut and fully comparable patterns of privatisation, it also strengthens arguments about the difficulties of distinguishing between public and private actors and responsibilities.

Above, it was noted that several PSCs in Iraq work directly for US or UK government agencies and that these are financed directly through state funds. Also, it was pointed out that many PSCs are not contracted in this fashion; rather, the vast majority of security companies work for other private companies that may or may not work directly under state contracts. These private companies are in many cases (e.g. if they are not seen as deploying with the force) essentially responsible for arranging their own protection. For companies that do work under government contracts, however, states will indirectly finance their subcontracts with security companies. In the case of the US, this can be done through the so-called Iraq Relief and Reconstruction Funds (IRRF-1 and IRRF-2) through which over \$20 billion in state funds has been appropriated for humanitarian assistance and the rebuilding of Iraq (see e.g. SIGIR report, 23 Oct. 2007).

However, it is unclear whether a PSC working as a subcontractor to a subcontractor to a prime contractor can strictly be seen as publicly financed, since the actual payment is channelled through several layers of private contractors. Certainly, state agencies incur costs for the services that the PSC provides, but have no direct links to the company or the services. A lack of direct connection with second or third tier contractors might help explain why state agencies such as the DOD, USAID and the DOS have apparently not collected comprehensive data on the costs associated with security services (e.g. GAO 2006). As will be discussed below, the lack of direct financial connection might also be problematic in terms of state oversight and control over the companies operating in Iraq, especially if financing is seen as a tool for shaping the companies' behaviour (Isenberg 2007: 92). While the actual payment for services in this case is made by another private company, costs for security services incurred by subcontractors are also reimbursed by prime contractors who, in turn, are reimbursed by the state, thus making financing a public matter, albeit indirectly. Again, making distinctions between different actors and their activities (and responsibilities) is difficult because of the involvement of both public and private actors in the multi-layered financing of security services in Iraq. As we shall see, the same observation holds true in the case of production.

#### 7.2.3. Production

Privatisation is often associated with the practice of letting private companies take care of the management, preparation and/or delivery of services or goods. Hence, when we speak of security privatisation, it is often the production of

security services – such as providing military training, convoy escorts or intelligence analyses – that first leaps to mind. In the case of Iraq, a number of different military- and security-related services are currently being produced by over a hundred private security companies, while others are produced principally by state agents such as the military. Again, the main point is that no simple division of labour between public and private producers of security exists; the situation on the ground is very much a combination of public and private actors whose roles are shifting to meet the equally shifting demands of their working environment. As the GAO observes, "[s]ecurity for Civilians and Contractors in Iraq Is Provided by a Mix of Military Forces, State Department Security Personnel, and Private Security Providers" (GAO 2005: 10).

To illustrate this mix further, the contract with the DOD held by the British PSC Aegis Defence Services provides a case in point. Under the RSSS contract, Aegis provides PSD teams to the client, the US Army Corps of Engineers. In conjunction with the US military, Aegis also provides intelligence services and staff to the Reconstruction Operations Centres (ROCs) throughout Iraq, a system through which contractors can be tracked and get updates on the security situation in their area or about the safest routes from A to B. The ROC also serves as the emergency service for contractors in need of military assistance, such as a Quick Reaction Force (QRF) or a medical evacuation. The QRF is not private, however, but consists of military units in the area that may be asked by the ROC personnel to provide military or medical assistance to contractors in trouble (Donald 2006: 71f; GAO 2005: 13, 23ff). However, not all emergencies are responded to by the military. There have been instances when private security companies have responded when other companies have run into trouble, on some occasions even to military emergencies (Interview, D. Donald, May 29, 2007).

The ROC system is a good example of how a number of security services (physical protection, intelligence) are being delivered and managed by public and private actors whose roles are not static but overlapping. It is also a telling illustration of the problems of maintaining clear-cut lines between public and private (or military and civilian) in cases such as Iraq. On a general level, it can be expected that without clear divisions of labour between actors, it will be difficult to distinguish between public and private responsibilities. The example of the ROC system is important also because it raises questions about the cooperation and coordination between public and private actors or producers and the ways in which they manage their different and shifting roles. As will be shown in the next chapter, these issues are of critical importance to the issue of state control of force, not least because PSCs in Iraq perform what Peter Singer has called "armed roles within the battle space", meaning that the companies perform functions commonly been associated with the military (Singer 2007b: 3).

### 7.3. Conclusions

Undoubtedly, the case of Iraq displays instances of privatisation in terms of the production, financing and regulation of security services. Upon closer inspection, the two basic patterns of privatisation based on who the companies work for appear to diverge only marginally in terms of the identity of the clients and in terms of how PSC contracts are financed. Because of differences in how states have privatised (consciously or through inactivity), because of changes in regulation, production and financing patterns over time, and because of the difficulties of making clear distinctions between public and private responsibilities, general statements about security privatisation or patterns in Iraq are problematic. The two patterns identified in this chapter have essentially been used as points of departure for further problematisation and analysis and do not by themselves constitute sufficient analysis of security privatisation in Iraq. However, by questioning the patterns and the basic idea of a separation between public and private, some key points have been made that serve as a point of entry into the issue of state control.

Firstly, breaking down privatisation into three basic categories has proved useful because it has enabled analysis to move well beyond a simple understanding of privatisation as the replacement of the state by the market. Importantly, this has been made with the aim of avoiding the temptation to make judgements as to degrees of privatisation in different cases. Instead, the analysis has focused on making description and analysis more complex and less generalised by using the basic categories and patterns outlined in Lundqvist's taxonomy. Secondly, looking at security privatisation in terms of financing, production and regulation has revealed not only that the lines between public and private spheres are hard to maintain, but also that the issue is not simply one of public or private. This is in line with the historical overview of non-state violence that clearly indicated that sharp distinctions between state and non-state spheres are to some extent artificial and therefore very difficult to pin-point. The argument here is that there is nearly always a mix of public and private, potentially making it more difficult to assign responsibility and to ensure state control. As has been shown above, Iraq is no exception. Finally, some differences on the state level (i.e. between the US and the UK) have been identified, as well as important changes over time, especially in terms of efforts to regulate the market in the US. The question now, of course, is: what do these findings imply for the issue of state control?

The fact that security is being privatised in Iraq suggests a willingness of part of state actors to let private companies perform a wide range of services in the theatre of operations. At first glance, this observation appears to be stating the obvious, but it is more to it than that. In fact, this basic observation suggests a shift in the relationship between states such as the US and the instruments of force and protection. In relation to the situation in Iraq, this means that private

companies have been contracted to perform functions that have frequently been seen as belonging to the domain of state actors such as the military. This is particularly evident in the case of production, where PSCs are engaged in a wide range of activities that both duplicate and replace some of the services provided by the military. Yet as shown above, PSCs are not the military. They are private companies, which essentially means that they operate to some extent outside the conventional channels of command and control. In terms of production, this indicates a change in the ways in which force and protection are produced and delivered, potentially making conventional modes of control and oversight – for instance those designed to create state control over the military – less useful.

Adding to this image of increased complexity is the lack of direct links between state institutions and private security companies in relation to the financing of security services in many cases. As noted above, a lack of direct links suggests that it becomes more difficult in these cases to use financing as a way of shaping the behaviour of PSCs. Instead, this becomes the job of the company (itself a prime or subcontractor) that contracts the PSC. In Avant's words, "private financing or delivery redistributes power over force" and thus points to changes to state control (Avant 2005: 255). Perhaps the most evident indication of changes in the basis for state control is the privatisation of regulation through government inactivity or when parts of the regulation of security services are actively transferred to the companies and their business organisations. Taken together, the fact that all three categories display a mix of public and private is enough to suggest that the ways in which states control activities related to the use force are changing and that several existing methods of command and control are likely to be challenged. In order to find out how these changes and challenges come about, and thus be able to say something more about how privatisation changes the relationship of the state to violence (as it has conventionally been understood), the following chapter will investigate security privatisation in the case of Iraq in relation to the functional, political and social control of force.

# 8. The Case of Iraq and State Control of Force

This chapter will address the question of how security privatisation in the case of Iraq relates to changes and challenges to state control of force. The aim is to show how different aspects of privatisation can be analysed and understood in relation to the three dimensions of state control outlined in Chapter 4, namely the functional, political and social control of force. In the previous chapter, it was argued that identifying and analysing privatisation patterns in Iraq lends some clarity to the question of how security privatisation has progressed and hints at ways in which this practice can be expected to influence and change state control. Through privatisation, commercial entities and their associations become involved in the production, regulation and financing of security- and military-related services. As a consequence, the roles and functions of private companies and state actors frequently become mixed, rendering clear-cut analytical distinctions between public and private actors and responsibilities difficult to maintain. Of course, this makes it difficult to pin-point causal mechanisms at the level of one particular aspect or dimension of privatisation. Still, departing from the observations made about the characteristics and shifts of security privatisation in Iraq, it is reasonable to expect that the basis for state control changes in several ways and that these changes and challenges can be identified and probed further.

Applying the three-dimensional concept of control, the subsequent analysis will consider privatisation and state control mainly through the lens of civil-military relations theory. Through this analysis, it will be possible to point to critical changes and challenges to state control (referring particularly to the US and the UK) in the case of Iraq. To reiterate, privatisation should be understood as a process that introduces a new element into civil-military relations, thus shifting the "balance of the soldier and the state" in ways that may both increase and decrease state control of force (Singer 2003: 191). It also deserves to be repeated that changes and challenges to state control are not simply interpreted as a hollowing out of the state's monopoly of violence. The argument here is that changes and challenges to state control indicates a gradual shift where states to varying degrees exercise control of the use and instruments of force. In addition to changing the conditions for civilian or public control, security privatisation should also be seen as process through which private companies become involved in shaping security issues and structures. This line of thinking situates security privatisation at the heart of civil-military relations, and it adds an additional dimension to the analysis of challenges and prospects associated with this practice. The chapter is structured around the three dimensions of state control and hence the first section will deal with functional control, whereas the second will identify and analyse some of the major changes and challenges to political and social control. Though this analysis draws on a number of different primary and secondary sources, some of the

most important insights into different aspects of control have been provided by the persons that were interviewed for this project.

# 8.1. Functional Control and the Case of Iraq

In the theoretical discussion on functional control in Chapter 4, we saw how in a civil-military relations context, the term functional control basically refers to the capabilities of the military and its effectiveness in defending the state. From a functional point of view, the privatisation of security can both enhance and challenge the functional control of force. This section will point to some of the ways in which states such as the US and the UK have arguably made functional gains as a result of security privatisation. In addition, and more importantly, it will also identify serious challenges to the functional (or military) control, for instance due to problems of communication, cooperation and coordination. Finally, this section will describe and discuss some of the changes have been made over time to address the problems of control for state actors.

#### 8.1.1. Functional Gains and the Limits of Privatisation

**Will Prescott:** Why can't we use, say, the Army to protect people like Bremer and the ambassadors instead of companies like Blackwater?

**Colin Powell:** Yeah, because the Army is limited in size, it's only about 500,000 troops plus a couple of hundred thousand reservists, and they can only go so far. And, you have an army to take the battle to the enemy and not just to be bodyguards. And if you can get qualified contractors — many of them are ex-service, ex-Secret Service and have those skills — then why not do that, OK? (*The Oklahoma Daily*, September 11, 2007)

The reply by former Secretary of State Colin Powell is an illustrative example of how privatisation decisions are often motivated or explained by functional arguments and thus, it provides a useful point of entry into the present analysis. From the quote above, three functional arguments in support of security privatisation can be discerned. Firstly, since the army is limited in size, it is rational from a functional perspective to consider private options in order to gain access to certain services. Secondly, because the primary function of the army is to fight wars and not to be bodyguards to ambassadors, using private contractors to perform these functions is a way of letting the army focus on its principal mission. Thirdly and finally, that security contractors are qualified to effectively carry out the tasks of protecting civil servants is indicated, Powell argues, by the fact that many of them have been trained by US military or law enforcement agencies.

In light of these arguments, it would seem that the use of PSCs increases the state's functional control of force by providing state agencies with readily available and highly professional personnel to perform tasks that the military is not primarily designed for or currently unable to take on. As will become clear, however, there are a number of factors linked to the use of PSCs in Iraq that complicates generalised images of the impact of privatisation on capabilities and effectiveness. In all fairness, it should be pointed out that Powell is not unaware of the functional limitations of security privatisation. Asked about his general opinion on the outsourcing of security tasks to private companies, he replies:

We have always used our contractors and our civilian enterprises to support our military forces overseas. I think however that there is a danger that if you put so much reliance on contractors you might run into an emergency somewhere sometime in a place even more dangerous than Iraq where you will not be able to count on those contractors because they are civilians. (*The Oklahoma Daily*, September 11, 2007)

In Powell's view, contractors and private enterprises are part of the picture when US forces deploy overseas, but the fact that they are civilians means that there is a limit to the trust that can be placed in commercial actors, especially when the level of danger is high. Here, we come back to the basic differences between private companies and the armed forces discussed in Chapter 4. PSCs are not tied (legally or socially) to a particular state in the way that armed forces are; the business contracts that PSCs operate under differ from the social contract between the state and the military in ways that presumably makes it difficult to get private companies to accept the same level of risk and potential losses.

To explain this, Singer suggests that the use of PSCs adds two levels of decisionmaking that set them off from the military. The first is the corporate level, where a company (as distinct from the military) has the choice of what contracts to take and also to break contracts if the situation becomes too dangerous (Singer 2004: 8). The second level is that of the individual. As Singer points out, an enlisted or drafted soldier has little choice but to stay on the job (or face a court-martial), whereas an employee of a PSC does have the choice to resign or to transfer to another employer for a variety of reasons (ibid.). These concerns about the "reliability 'under fire" of PSCs (principally akin to the problems of loyalty and reliability of mercenaries discussed above) have often been placed centre stage in the debate on PSCs in Iraq (Isenberg 2004: 49; Holmqvist 2005: 28f). Occasionally, there have been instances when logistics contractors, linguists, interpreters and PSC employees have refused or ceased to perform their obligations due to the security situation, but there appear to be few indications to suggest that PSCs in Iraq would generally shy away from dangerous situations or tasks (e.g. Isenberg 2004: 49f; Singer 2004: 8; Kinsey 2006: 107f; Avant 2006: 336; Evans 2006: 8ff; Elsea and Serafino 2007: 27f). Yet the differences between PSCs and the military suggest that there are limits to the functional gains that can be made through privatisation.

However, functional control is not only affected by the differences between state and non-state actors. In addition, the effect of privatisation on functional capabilities is also related to the ability of states and contracting agencies to match their expectations and requirements with the conditions they create for companies to perform specific tasks. For instance, as Simon Falkner points out, when restrictions are placed upon PSC operations or equipment (e.g. in terms of protective gear or weapons), then companies can only be expected to work effectively in contexts and positions where that level of equipment or protection is sufficient (Interview, S. Falkner, 2007). If restrictions and regulations do not match the requirements of the situation on the ground, companies may be unable to carry out their tasks. In such instances, they may choose to terminate contracts, causing further disruptions of, and changes to, functional control. In part, this is a result of the rigidity or inflexibility of the contract instrument. A business contract with a PSC will be based on an agreement on the tasks to be performed and the (fixed or cost-plus) price of the services provided. Once signed, the possibilities of amending or changing contracts, for instance to adjust to changes on the ground, may be inhibited by one party's unwillingness to change the original agreement (Avant 2005: 123ff; Elsea and Serafino 2007: 26f; Schreier and Caparini 2005: 46ff).

Two examples will serve to illustrate this point. First, Avant cites the case of Vinnell's contract to train the Iraqi Army. Much of the work on the \$48 million contract to train nine battalions for the new Iraqi army was subcontracted to other companies such as MPRI and SAIC (Science Applications International Corporation). When problems of substandard training and deserting recruits were pointed out by US military officials in 2003, it proved difficult to change the contract in order to solve the problems, reportedly because of Vinnell's unwillingness to change the contents of the contract. In the end, Vinnell completed the contract to train the nine battalions (Avant 2005: 125; see also Isenberg 2004: 37f; Isenberg 2006: 154f). A second example is the much-publicised case of the four Blackwater employees who were killed on 31 March 2004 while escorting a convoy near the town of Fallujah, located west of the Iraqi capital. The bodies of the four contractors were mutilated and their bodies hanged from a bridge outside the town. At the time of the incident Blackwater were working to provide security for a Kuwaiti company (Regency Hotel & Hospitality) under a complicated network of subcontracts and sub-subcontracts linked to the LOGCAP (Logistics Civil Augmentation Program) – a US Army initiative to employ predetermined corporations to provide logistics support in the field. According to some reports of the events, Blackwater knowingly (having been warned by its predecessor, the British PSC Control Risks Group, that the mission was too dangerous) sent out an insufficient number of employees with insufficient intelligence, weapons and protective equipment (ordinary soft skin jeeps instead of armoured vehicles) to protect the convoy. Other reports state that protective equipment was crossed out from the contract that Regency held with Eurest Support Services (ESS) to

increase profits (for Regency). Regardless of who is ultimately responsible, the result was that the four security guards ended up in a situation where they could do little to defend themselves or their client. Although they were working far down the chain of subcontracts, the contractors were ultimately working for and paid by the US government (e.g. Pelton 2006: 118-142; House Committee on Oversight and Government Reform, September 2007; Scahill 2007: 91-105).

Bad performance by some contractors and insufficient protection for security contractors in situations of escalating violence does not sit well with the inflexibility of the contract instrument. The result of an inability to adapt to changing conditions on the ground is (at least in the short term) spell problems for functional control. Of course, it must be acknowledged that in conflicts such as the one in Iraq, the security situation is volatile and changes highly unpredictable and therefore, it is exceedingly difficult to anticipate and prepare for the conditions under which the tasks of a specific contract will ultimately be carried out. Yet, failure to adapt as changes unfold will affect functional control negatively. On a general level, it is reasonable to argue that while there are certain functional gains to be made from privatisation, contracting and subcontracting for security services in a war zone introduces a number of factors that make the realisation of these gains uncertain or unattainable. As we shall see, however, the services provided by PSCs in Iraq are perceived by contracting agencies and politicians as more or less indispensable, regardless of the problems associated with the companies and their activities.

When Secretary of Defense Robert Gates was asked if he thought that the US could accomplish its mission in Iraq without security contractors. Gates replied: "Well, we could, but it would require and enormous commitment of American troops to ... assuring the security of our diplomats and civilians working in Baghdad and in the rest of Iraq as opposed to working [with] the security situation for Iraq more broadly" (DOD News Briefing, 18 October 2007). In a similar vein, a State Department report on Personal Protective Services (PPS) finds that "[t] he U.S. Military in Iraq does not consider it feasible or desirable under existing conditions in Iraq for the Department of Defense to take on responsibility for provision of PPS support to the Embassy" (Report of the Secretary of State's Panel, October 2007). This heavy reliance on PSC services is a consequence of contracting agencies trying to increase capabilities, flexibility and effectiveness. The question of how functional control changes will be determined by a number of factors, including organisational difference between state and non-state actors, the conditions under which they operate, and, as will be discussed next, the ways in which they relate to and cooperate with each other.

# 8.1.2. Issues of Cooperation, Communication and Coordination

The idea was that they [coalition forces] would provide us with information because there were attacks and the point was that their intelligence unit would forward information to private companies about hot spots and about places where you should not be. But the information never came. We lived in a world where we had to sit by ourselves and try to figure out what routes to take and what the situation looked like at the moment. The result was that we tried to build informal networks. (Interview, Anonymous 01, 2005)

There were times in the early days when you got nothing. Absolutely nothing, you know, even if people were in extraordinarily dangerous situations, and we had one or two instances which I as an ex-Army officer found very hard to cope with when the military didn't come to our aid at all. (Interview, S. Falkner, 2007)

From the point of view of the first respondent, the official exchange of information between PSCs and the armed forces in Iraq in 2004 worked badly or not at all; the flow of information and intelligence that did take place worked primarily along informal lines and depended on cultivating and maintaining personal relationships with key individuals in the coalition forces. This is not an isolated example; on the contrary, it appears as a reasonable illustration of the lack of institutionalised and effective relationships between different state and non-state actors that characterised the early period of security privatisation in Iraq. As hinted in the second quote above and as will be demonstrated below, the implications of not having organised and structured relationships are sometimes very serious and indicate challenges to the functional (or military) control of force.

In 2005, the GAO observed that in the initial period of the Iraq conflict, cooperation between US armed forces and security companies was mainly done informally (GAO 2005: 22). On the same note, Donald observes how the working relationship between British military personnel and PSCs is not institutionalised but instead determined by personal contacts and decisions by individual commanders in the field (Donald 2006: 33). To illustrate the related problems, the GAO cites one example where a PSC escorted a CPA administrator into a US military unit's area of operations without prior notification to the unit. When a fire fight broke out at the location of the CPA administrator, the squadron had to pull troops from an operation in Najaf to rescue the administrator. According to the officer that the GAO interviewed, this had a significant impact on the ongoing military operation (GAO 2005: 22).

From the point of view of the military, incidents such as these are of course serious if they delay or obstruct missions or operations. Not only do these events disrupt ongoing operations, they may also create dangerous situations that put military or civilian personnel at risk (GAO 2006: 8f). However, the lack of

institutionalised relationships and ensuing problems in the field also affect PSCs and their operations. Perhaps the most conspicuous and serious manifestations of problems of communication and coordination are the so-called blue on white (or white on blue) incidents, when military forces have fired upon PSCs (or vice versa). A number of such incidents have been reported; in the period between January and May 2005, 20 instances of blue on white violence were reported via the ROC (Reconstruction Operations Centre) system (GAO 2005: 28).84 In view of these incidents, it is understandable that among PSCs, "there's a deep concern about ensuring good coordination and making sure that the military understands exactly what it is that contractors are doing in the theatre" (Interview, J.J. Messner 2007). While the reasons for blue on white violence will of course vary from case to case, some important factors have been identified: the military's concerns about vehicle-borne improvised explosive devices (VBIEDs) coupled with a lack of knowledge about PSC operations and movements, badly enforced rules of engagement (ROE), a lack of a functioning system for identifying PSC vehicles, a lack of radio interoperability between the military and contractors, and insufficient liaison with the military by PSCs entering into areas of operations (GAO 2005: 26ff; GAO 2006: 9f; also Holmqvist 2005: 32).

Privatisation on a large scale also means a number of private companies operating alongside each other in the field, but employed by different state and non-state clients. If there are few formal structures in place to organise their coordination and cooperation – as was certainly the case in Iraq in 2003/04 – companies will have different access to information and intelligence, depending for instance on who they work for and their relationship with the military or individual commanders. The lack of institutionalised relationships sometimes led to situations where "the only sense that private security operators had of a given area that they might be moving through was an informal understanding that they had acquired though their own networks" (Interview, D. Donald, 2007). Of course, working under such conditions is difficult and affects functionality negatively. In addition, because private companies are in competition for contracts, one would expect to find some resistance among PSCs to sharing information or cooperating with each other (Isenberg 2004: 21). Along the informal lines that did exist, one PSC employee observed:

You could trade information, but at the same time there was competition between the companies which meant that you did not ... you did not want to want to mix too much with each other. A lot of money was at stake, you know (Interview, Anonymous 01, 2005).

<sup>&</sup>lt;sup>84</sup> As the GAO report points out, the actual number of incidents is likely to be higher since not all PSCs report these kinds of incidents (GAO 2005: 28). As for instances of PSCs firing upon the military, one oft-cited case is that of the Zapata Engineering convoy whose 19 American security guards were taken into custody on suspicion of shooting at a US Marine guard tower in May 2005. The 19 men were subsequently released (Isenberg 2006: 158; Phinney 2005).

In addition, the contracts that PSCs work under bind them to their clients in a way that may also hinder cooperation, even in precarious situations. In the words of the same respondent:

No-one would bring their client into harms way to save operatives from another company: responsibility to the client comes first. [There was] no chance of helping another company if you had a client in the car. You would not last long as a contractor [if you endangered the client] (ibid.).

Certainly, problems of communication, coordination and cooperation cannot be explained solely by the lack of formalised arrangements, nor can the creation of such arrangements hope to resolve all the issues involved. Again, differences between PSCs and military organisations, as well as competition between companies, are factors that play a part in the ways in which changes and challenges to functional control occur. Also, as the above citation indicates, another aspect of the relationship between state and non-state actors is the question of perception of different actors of each other. Importantly, just like issues of organisation or competition, problems related to perceptions and attitudes between actors on different levels may not be quickly resolved through the structures put in place by states to deal with other functional problems. To date, no comprehensive studies of attitudes among officers, soldiers or PSC operatives have been published. Still, my interview material and secondary sources point to the importance of perception for functional control.

From the point of view of the military, there are of course different views of PSCs. One the one hand, soldiers see the (functional) need to complement an overstretched military in a case like Iraq; on the other hand, they may worry about skilled military professionals moving to the private companies (Singer 2004: 15ff). In addition, they may have different ideas about people working for PSCs, ranging from admiration and acceptance to jealousy and suspicion (Avant 2005: 152f, 174f; Interviews, Anonymous 01, 2005 and Anonymous 03, 2006). Feelings of envy may be rooted in differences in salaries, standards of equipment or length of contracts. In addition, some soldiers and officers may find it unethical or questionable that people (or ex-service members) work for PSCs, while others view them as fellow professionals and part of the same team.<sup>85</sup> The point here is that perceptions vary – PSCs may be seen as "top of the food chain" or as "cowboys" or "mercenaries" – and that these sometimes influence the willingness

<sup>&</sup>lt;sup>85</sup> During my interviews and conversations with PSC representatives, employees and industry officials, it soon became clear that attitudes and perceptions were deemed important and that they varied extensively. While the number of interviews was limited, it is still possible to point to some tendencies that could be investigated further. Firstly, several people found that the US armed forces were more positive towards PSCs than their British counterparts (cf. Mockler 2006: 335f). Secondly, it appears as if attitudes may have improved over time, i.e. that PSCs were – at least in some quarters – increasingly seen by the miliatry as legitimate parts of (and partners in) the security effort in Iraq.

to cooperate or to share information (Pelton 2006: 219; Interviews, Anonymous 01 & 02, 2005).

At command level, Donald observes, perception is also ambivalent, "with accusations of poaching personnel and irresponsible conduct vying with an appreciation of operators' professionalism and the assistance they can provide" (Donald 2006: 33). Again, negative attitudes may have functional consequences: "Some commanders in Iraq ... have been happy to ask PSCs to act as force multipliers [...] Other commanders have refused to have anything to do with the sector at all, insisting that personnel under their command have no contact with them" (ibid.). Conversely, PSC employees may very well have a negative perception of the military:

Those who were fresh out of the British armed forces wanted to pay back for having been treated badly there. [In their opinion,] they went from being pushed around to ... pop stars (Interview, Anonymous 02, 2005).

Such sentiments meant that former soldier who sough employment with PSCs would sometimes be disinclined to cooperate with the military. Tension between these two groups (i.e. the armed forces and PSCs) can – just like inter-service rivalry – be negative from a functional perspective, for instance when they make cooperation and communication more difficult, or if they work to undermine the loyalty or initiative of soldiers (Avant 2005: 261).

Asked about the relationship between the private industry and state institutions "at home" in Britain, Christopher Beese of ArmorGroup observed:

The MOD instinctively thinks PSCs may be a bad idea. The armed forces and the MOD are the slowest to consider the advantages that the PSC industry might offer and have been the least flexible at policy level in dealing with the reality of PSCs (Interview, C. Beese, July 2006).

This observation seems to corroborate arguments about the UK military seeing the work of PSCs as infringing on the military's turf (Avant 2005: 174). On the other hand, John Holmes of Erinys has suggested that the MOD is on "a steep learning curve about PSCs" and that negative attitudes may be shifting, partly as a result of the involvement of PSCs in Iraq (Interview, J. Holmes, May 2007). This does not mean, however, that the UK will expand its use of PSCs in the near future; as mentioned above, Secretary of State for Defence Des Brown have pointed out that the MOD has no plans of contracting with PSCs in Iraq (House of Commons, 22 October 2007). Yet, as Christopher Beese observed in mid-2008, "the UK MOD is now adopting a more pragmatic and flexible approach to PSC support" and so the former reluctance may well be changing (Email communication, C. Beese, July 30, 2008).

On all levels, perceptions and attitudes will influence the possibilities of effective communication and cooperation between non-state and state actors and thus functional control. While more data is needed to make better assessments of attitudes and perceptions on a general level, it appears as if there are differences between the ways in which PSCs are viewed in the UK compared to the US. In part, these differences are to be expected since the US government has a long tradition of contracting out various functions of the military (e.g. logistics, training) to the private sector, while in Britain, the private security industry is primarily working for private sector clients. In addition, any suggestions to increase the UK government's use of PSCs have most likely been affected negatively by widely publicised incidents such as the 1997 "Sandline Affair" or the alleged involvement of Sir Mark Thatcher (son of the former Prime Minister Margaret Thatcher) in the failed *coup d'etat* in Equatorial Guinea in 2004 (Kinsey 2006: 98ff; Avant 2005: 174ff; Mockler 2006: 291ff, 310ff). As an example of the slightly uncomfortable attitude towards PSCs in the UK, the FCO has issued guidelines on how their personnel may and may not associate with PSCs generally and in Iraq. In the 2004 edition of the guidelines, the FCO wants officers who come in contact with PSCs to be alert to the legal framework in which PSCs are operating, how the activities of PSCs may impact on the wider context of Iraq, and finally "the potential for HMG's contact with PMCs/PSCs to be scrutinised by Parliament, the media and, potentially, in legal proceedings" (FCO Guidance, July 2004). In addition, the document states that social contacts with PSCs "can easily be misinterpreted" and that officers should report "substantive contacts" to the British Embassy in Baghdad (ibid.). Another FCO Guidance from April 2004 reminds staff that many PSCs "employ former members of the Armed Forces or of the Diplomatic Service" and demands that staff "should ensure that this does not give the companies privileged access beyond that available to other companies" (FCO Guidance, April 2004; also FCO Guidance, February 2007). In sum, while the knowledge about attitudes and perceptions leaves much to be desired, it is reasonable to suggest that when the use of PSCs is viewed as controversial or even unethical within the military or the defence ministries, this will influence the possibilities of increasing functional control through privatisation – especially in the context of military operations.

Yet the problems identified above do not *necessarily* follow from privatised production of security services in a conflict zone. Just as there are indications of problems resulting from a lack of formalised working relationships, so there are examples of effective cooperation and communication in the absence of institutionalised arrangements. Indeed, one could agree with Lee van Arsdale, CEO of Triple Canopy:

[Y]ou always have to have the informal networks – that's what makes anything work. [...] I talk to my peers and contemporaries and the guys on the ground are always working with each other. For them, it's literally a matter of life and death when they're in a place like Iraq. [...] It's in everyone's best interest to make sure that people collaborate and work together smoothly. (Interview, L. V. Arsdale, 2007)

This observation suggests that in a case like Iraq, the severity of the situation on the ground may in fact cancel out some of the problems of cooperation and communication. John Holmes, Director of International Affairs at Erinys, argues along similar lines and adds a less negative image of PSC-military relationships:

From the outset [Erinys has been on the ground in Iraq since May 2003] our relationship particularly with the American forces has been outstanding, principally because they are used to working with private security companies. We had a tricky period with the British Army to start with, but, again, after a few months that settled down. I think in Iraq, one can very safely say that when you are in Iraq, actually there on the ground, whether you be soldier, diplomat, private security or whatever, you realise that everyone works very closely together, and has to. (Interview, J. Holmes, 2007)

Both van Arsdale's and Holmes's observations are important because they moderate the image of the implications of privatisation for issues of cooperation, coordination and communication. <sup>86</sup> The argument here is not that security privatisation will, under all circumstances, result in problems of information sharing, nor is it the case that informal networks are inevitably ineffective or undesirable. Rather, the point is that in the case of Iraq, problems related to the relationships between state and non-state actors – or what in this context can be termed PSC-military relations – do exist and point to a lack of organisation of these relationships. As a result, problems of communication, cooperation and coordination (in turn closely related to functional control) have frequently arisen.

## 8.1.3. Changes and Challenges to Functional Control: A Summary

In Iraq, the use of PSCs has meant that state actors such as the US and, to a lesser extent, the UK, could gain access to a wide range of functions that were currently unavailable within the armed forces or that could be used to make military personnel available for more pressing tasks. On one level, then, it could be argued that outsourcing the production of certain security- and military-related services to PSCs has increased functional control. As noted above, the reliance on PSCs to perform vital functions is – at least in the case of the US – so

<sup>&</sup>lt;sup>86</sup> Lee van Arsdale is a former colonel of the US Army 1<sup>st</sup> Special Forces Operations Detachment-Delta (Delta Force); John Holmes, DSO, OBE, MC, retired in 2002 from the British Army with the rank of Major General, having served (among other things) as commander of 22 SAS and later as Director of Special Forces (Triple Canopy 2005; Erinys International Management Profiles). It is rather unsurprising, therefore, to find that they have good personal relationships within the military. Lee van Arsdale said: "I go to Iraq and I talk to the military and I still have friends in the military... we have a very good reputation within the military" (Interview, L.V. Arsdale, 2007). John Holmes stated that "I can go and see the deputy commander who's...of the coalition forces, who's a Brit, anytime I want. I can go down to Basra and see the British general down there" (Interview, J. Holmes, 2007).

great that reversing the process (in Iraq) is deemed unrealistic. However, as the review of some of the issues of cooperation, coordination and communication suggests, security privatisation also means challenges to functional or military control in the field. The lack of established and organised working relationships between different actors on the ground creates a situation where success or failure is often determined by informal and personal communication and collaboration. This situation is very different from highly structured relationships and lines of communication between, say, different military units and commanders in the field. Even if informal networks can be highly effective in their own right, it is clear that in the case of Iraq, they do not cancel out challenges to functional control. In addition, the perceptions and attitudes of actors towards each other adds yet another factor to the problems of communication and cooperation.

In 2004, one DOD report stated that the relationship between PSCs and the US military forces in Iraq is one of coordination rather than command and control because there is no contractual relationship between the company and the combatant commander or the forces in the field (Section 1206 Report, 2004: 6; GAO 2005: 20f). From the point of view of military control of force, this essentially means that PSCs fall outside the normal chain of command. <sup>87</sup> In turn, if coordination works primarily along informal lines and sometimes not at all, then situations that challenge the effectiveness of military forces – such as the disruption of military operations because of insufficient coordination between PSCs and the military – may arise. Conversely, if little or no formal coordination exists, the ability of PSCs to effectively perform functions on behalf of their state or non-state clients may be severely limited, for instance because of a lack of updated information or intelligence on threats or safe routes.

Under certain circumstances, security privatisation can thus be counter-productive in relation to the goals of rapid access to certain functions, increased effectiveness and flexibility. The negative effects on functional control are most visible when the lack of organised relationship between actors creates situations of increased insecurity, risk or violence. The blue on white incidents or the incident with the CPA administrator referred to above are clear examples of increased friction

<sup>&</sup>lt;sup>87</sup> This is particularly the case with PSCs that are not prime contractors to the US Government. The DOD report states that "the USG [US Government] has no cognizance over private security firms hired independently by coalition partners, NGOs, the Iraqi Government, or private contractors operating in Iraq" (Section 1206 Report, 2004: 6). Hence, the report points out, there is no direct relationship between the USG and subcontractors. The legal relationship is between the USG and its prime contractor. If the prime contractor is using subcontractors – for instance to provide security services – then "any involvement with a subcontractor must be through the prime contractor" (ibid: 12, *n*. 26). The relationships may be even more complex, for instance when "security guards are hired as 'independent contractors' by companies that, in turn, are sub-contractors of larger security companies, which are themselves subcontractors of a prime contractor, which may have been hired by a United States agency" (*New York Times*, April 19, 2004).

and violence (and thus severe problems of functional control) that may have been avoided had PSC-military relationships been more structured, formalised and thus more likely to work effectively. Certainly, neither PSC representatives nor government agencies are unaware of these very serious problems. Efforts have been made on different levels to resolve these issues and thus increase the possibilities of making functional gains through security privatisation. As we shall see, the structures that have been put in place to improve the situation on the ground have been partially successful. Still, some problems persist and seem unlikely to be resolved in the short run.

## 8.1.4. Addressing the Problems: The ROC System and Beyond

The creation of the ROC (Reconstitution Operations Centre) system in 2004 has been called "the biggest public-private sector co-ordination effort yet mounted in a conflict area" (Donald 2006: 70). Undoubtedly, it is the single most important attempt to remedy some of the problems identified above and, hence, worth discussing in some detail. The contract to support the ROC system was originally awarded to Aegis Defence Services (UK) by the US Department of the Army on May 25, 2004 (SIGIR 2005: 1). In late 2007, the contract with Aegis was extended for another two years. In short, the basic goal of the ROC system is to "improve situational awareness, develop a common operating picture ... and facilitate coordination between the military and contractors" (GAO 2005: 23). As pointed out in Chapter 7, creating a system of coordination and management indicates a perceived need to improve oversight and to formalise the relationship between contractors (i.e. reconstruction contractors and their security providers) and the military on the ground.

Essentially, the ROC system is supposed to serve as the interface between the military and contractors in Iraq, making it possible for the military to keep track of contractors, providing contractors with (declassified) information on the security of routes and locations, and relaying emergency requests for medical evacuations or military quick reaction force (QRF) from contractors. Organisationally, the ROC system is made up of a National ROC located in the International Zone in Baghdad and several regional ROCs co-located with US military divisional headquarters, and US Army Corps of Engineers headquarters, throughout Iraq. Participation in the ROC is compulsory for anyone holding a US government contract, but voluntary for other firms involved in the reconstruction effort, and free of charge; membership is open to all US government agencies, contractors and NGOs operating in Iraq as long as they can show involvement in the reconstruction effort or a US government contract. Within the ROC system, Aegis provides personnel to gather, analyse, and disseminate information, as well as to provide site security personnel, protective security details and liaison teams. The ROC and the regional centres are effectively operated by both Aegis and US military personnel; the latter

providing declassified information to be compiled and analysed and then made available to contractors in the field. In addition, the ROC ops room personnel man a radio net and monitor the movements of contractors and PSCs through a real-time tracking system (Interview, D. Donald, 2007; also Aegis website: "Aegis Operational Co-operation Case Study"; GAO 2005: 23ff).

Admittedly, this is a cursory description of the ROC system. However, the point here is not to discuss the intricacies or technicalities of the system as such, but rather to point to the main components of this major effort to improve coordination and communication. At first glance, it appears as if the ROC system manages to address a number of the critical points identified above: it provides the military and contractors with a means of communication, it improves the access to (and, presumably, quality of) intelligence available to PSCs and their clients, and it makes contractor actions and movements more visible to the military. Taken together, these improvements would imply decreased friction and increased functional control as the ROC allows PSCs to operate more effectively and as it increases the military's control over non-state actors in the battle space. Yet even if progress has been made, several problems remain.

According to security providers, reconstruction contractors and military personnel interviewed by the GAO, the ROC system has improved relations between the military and security providers; informal coordination based on personal contacts has evolved to a more structured (albeit voluntary) relationship (GAO 2005: 22ff; GAO 2006: 8f). One indication of improved coordination and increased awareness about PSC operations on part of the military is the apparent decrease of blue on white violence: in the period from June 1, 2005 to June 1, 2006, 12 incidents were reported via the ROC (GAO 2006: 9). Seen in relation to the 20 incidents reported from January to May 2005, this appears to be an improvement. 88 Also, the ROC system has managed to overcome some of the obstacles to cooperation based on competition between private companies and the unwillingness among companies to be coordinated by another PSC. Because it is operated jointly by the military and Aegis, Donald argues, and because of operational imperatives on the ground in Iraq, the ROC system has become a sort of "cut-out" that enables otherwise competing firms to pool information and to accept coordination (Interview, D. Donald, 2007).

Signs of progress notwithstanding, the establishment of the ROC was not without problems, nor has the system resolved all the problems of communication and coordination. For instance, use of the system is not universal; for many PSCs or their client companies, membership is voluntary. Particularly in the early phase of the contract, there were several PSCs that choose not to use to the system,

<sup>&</sup>lt;sup>88</sup> Since a large number of cases go unreported, the reliability of these figures is questionable and hence they should be viewed with some scepticism.

either because it was largely provided by a competitor, or because they thought it unnecessary (Interview, D. Donald, 2007). According to Isenberg, two of the largest PSCs in Iraq – Blackwater and DynCorp – refuse to participate in the ROC and thus "essentially making their movements invisible to other private security firms" (Isenberg 2008a: 69). Also, in spite of the ROC, problems with PSCs entering the battle space without coordinating with the military persist. Furthermore, the process of educating the military about PSC operations in Iraq has been slow: two years after the establishment of the ROC, the GAO reported that military officials still complained about a lack of knowledge about the system and pointed to the need for comprehensive pre-deployment training on working and coordinating with PSCs in the field (GAO 2006: 8ff). 90

Moreover, while the use of the system has increased and much of the early scepticism been overcome, the facts that the task of improving coordination and communication was largely outsourced is interesting from a functional perspective. David Isenberg has argued that the Aegis contract indicates a willingness on part of the US government to increase control, but also an apparent lack of capacity to provide it on its own (Isenberg 2007: 86). Hence, there was a perceived need to improve aspects of functional control, but also a belief that this could (or even had to) be achieved by contracting another private security company. The creation of the ROC system did improve coordination and oversight, seemingly increasing functional control. Yet, creating a system of coordination and oversight to deal with perceived problems meant that the state incurred a cost – in this case over \$292 million plus a maximum of \$475 million. In theory, these funds might have been spent elsewhere in the effort to improve the security situation in Iraq. In addition, the fact that a PSC was contracted to operate central parts of the ROC system indicates a willingness on part of the contracting agency (the DOD) to let a private company play the role of security provider but also grants them a role as security experts by making them part of the process by which threats are identified, understood, and acted upon.

Beyond the ROC system, other changes have been made to deal with the effects of some of the problems of coordination and communication outlined above. Several structures designed to address these problems have been put in place following the events of September 16, 2007, when employees of Blackwater became involved in a shooting incident in Nisour Square in central Baghdad during a convoy escort mission. According to the Spot Report by the Regional Security

<sup>&</sup>lt;sup>89</sup> According to Donald, ROC membership is voluntary for companies involved in the reconstruction effort unless they are on contract with the US Army Corps of Engineers, Gulf Regional Division, in which case membership is compulsory (Donald 2006: 72).

<sup>&</sup>lt;sup>90</sup> The IPOA also work to raise awareness about the security industry and PSC operations by providing pre-deployment to US soldiers (Interview J.J. Messner/IPOA, 2007).

Office (RSO) in Baghdad, the shooting began with the convoy being engaged with small arms fire from a group of 8-10 people, some of whom were reportedly "dressed in civilian apparel and others in Iraqi Police uniforms" (RSO Baghdad, Spot Report, September 16, 2007).91 The Blackwater guards then "returned defensive fire" (ibid.). This version was supported by Blackwater representatives but not by Iraqi officials, who claimed that the contractors fired "an unprovoked barrage" (Isenberg 2008a: 79). Later, US military reports also indicated that the Blackwater guards opened fire "without provocation and used excessive force against Iraqi civilians" (ibid.). The shooting resulted in the death of 17 Iraqis and around 25 wounded. The incident spurred an intense and heated debate in the US and internationally on the use of private security companies in Iraq and the problems of holding the companies and their personnel accountable for their actions under US and international laws. Following the Nisour Square incident, several formal US investigations were launched and litigations were filed against the company. Blackwater was faulted by the FBI for their actions during the incident – in fact, the FBI found that 14 of the shootings were unjustified – and the US Justice Department obtained indictments against five Blackwater guards in early December 2008. Yet, in spite of ongoing investigations, the company's contract to protect US State Department personnel was renewed in April 2008 (BBC News, Sep. 19, 2007; Washington Post, Oct. 3 & 5, 2007; Spiegel 2007; Scahill 2007; New York Times, October 3 and November 13, 2007, and December 6, 2008; US State Department, April 4, 2008 and September 16, 2008; Isenberg 2008a: 79). In relation to issues of control and oversight, the Nisour Square incident has been described as a "watershed event that highlighted the need for improved management and oversight" (Elsea, Schwartz and Nakamura 2008: 42). Indeed, after the incident, the number of reports, investigations and publicly available records about the US Government's use of PSCs in Iraq has increased substantially. Without doubt, the events of September 16 caused considerable embarrassment for the US government both nationally and internationally.

That incidents such as the one in Nisour Square reflect badly on the US operation was made clear by Defense Secretary Gates who said that there had been instances where the behaviour of PSCs had worked "at cross purposes to our larger mission in Iraq" (DOD News Briefing, Oct. 18, 2007). Shortly after the events of September 16, Secretary of State Condoleezza Rice emphasised the need for internal and external investigations and reviews to be launched but also said: "before we jump to any conclusions about what needs to be done, I think we have to recognize that we need contract security" (Department of State: Secretary Rice's Remarks, 24 September 2007). Commenting on the renewal

<sup>&</sup>lt;sup>91</sup> Ironically, the Tactical Operations Center Officer who is cited as the drafter of the RSO spot report, Darren Hanner, was reportedly employed by Blackwater at the time the report was written (CNN October 2, 2007).

of Blackwater's contract in April 2008, Patrick F. Kennedy, the Under Secretary of State for Management, expressed it even more bluntly: "We cannot operate without private security firms in Iraq. If the contractors were removed, we would have to leave Iraq". (*Time Magazine*, May 26, 2008). The statements by Rice and Kennedy reveal the dependence of the US (Department of State) on private security companies for its operations in Iraq. Considering the negative press that has resulted from incidents such as the one in Nisour Square and the decision to prolong the company's contract in spite of negative publicity and ongoing criminal investigations also suggests that sometimes, functional concerns outweigh considerations of political and social control.

In October 2007, the so-called Gansler Commission Report (named after the Chairman of the Commission on Army Acquisition and Program Management in Expeditionary Operations, Jacques S. Gansler) pointed to the links between contracting and the increasing complexity of military operations. In this context, the report argues, the "inability to monitor contractor performance and enforce contracts is a critical problem" (Gansler Commission Report, October 2007: 15). In the same month in 2007, a report was published by the Secretary of State's Panel on Personal Protective Services (PPS) in Iraq. The report states that while State Department security practices in Iraq have been "effective in ensuring the safety of mission personnel", prompt measures are still needed to strengthen "coordination, oversight and accountability" in order to "reduce the likelihood that future incidents will occur that adversely affect the overall US mission in Iraq" (Report of the Secretary of State's Panel, October 2007: 3). Echoing Secretary Gates's assessment above, the panel finds that improvements are necessary in order to "address shortcomings in coordination and oversight that have undermined confidence in the operation of the security program on part of the US military command and the Iraqi government and public" (ibid: 5). Expressed differently, structures that were intended to control PSCs have proven insufficient to prevent security contractors from repeatedly engaging in behaviour that is seen as working against the overarching mission of the US in Iraq. Hence, while security privatisation has provided functional gains in terms of access to certain services, inadequate oversight and coordination has led to situations where these gains have been diminished or reversed through the behaviour of some PSCs.

To resolve some of the perceived problems of oversight and coordination, the State Department report recommends, among other things, that a clear legal basis for holding contractors accountable under US law be established, that staff at the Regional Security Office is increased so that they can accompany PPS movements, that contractors are required to increase the number of staff with Arabic language skills and that training modules to enhance cultural awareness be added to the WPPS II contract, and that audio and video recording equipment be installed in each security vehicle and that vehicles are fitted with an identification

number (ibid: 8ff). On December 5, 2007, Tom Casey, Deputy Spokesman of the DOS Bureau of Public Affairs answered questions about the steps taken to implement the recommendations of the DOS report. One step to improve movement coordination and oversight was to have DOS Diplomatic Security agents travelling "in all PSD movements and all the convoys that went out from the [US] Embassy [in Baghdad]" (DOS Middle East Digest, December 5, 2007). In the long run, this would require additional personnel to be assigned to these duties. Another change was that cameras and other technical devises to monitor PSD movements and to make investigations of incidents easier were ordered and/or in the process of being installed (ibid.).

Investigating the efforts by the DOD and the State Department to improve oversight and coordination of PSCs, the Government Accountability Office reports:

Since the Nisour Square incident in September 2007, DOD and the State Department have taken action to improve oversight of PSCs in Iraq ... In November 2007 MNF-I [Multi-National Force – Iraq] established the Armed Contractor Oversight Division [ACOD] to provide oversight and serve as MNF-I's overall point of contact on policies that govern DOD's PSCs. MNF-I has also published comprehensive guidance related to the oversight of DOD PSCs and has made military units more responsible for providing information of PSCs in terms of incident reporting and investigating as well as contract management. (GAO July 2008: 4)

While these measures are all designed to increase oversight and control substantially, the GAO also points out these measures demands more DOD personnel to be assigned to oversight tasks and that problems of oversight may remain if military units are not made "aware of and trained on how to carry out their expanded oversight responsibilities" (ibid.). Although it is too soon to assess whether the actions taken are actually working or not, it is clear that the Nisour Square incident of 2007 marked the beginning of some important changes in the US approach to control and oversight of PSCs. 92

The ACOD also establishes a detailed incident reporting system for PSCs. In addition, a fragmentary order issued in December 2007 (Fragmentary Order 07-428) establishes six new Contractor Operations Cells to monitor and coordinate PSC movements. These Cells are to assume responsibility to provide the battlefield coordination that was previously handled by the Reconstruction Operations Center, or ROC, discussed above (GAO JULY 2008: 9-22). According to an article by David Isenberg, the ACOD is currently (August 2008) staffed with only "seven full-time employees, comprising three military personnel and four contractors" and "[i]t is the contractors who identify and track all PSC incidents, provide reporting ... process and log incident reports and maintain contact with the Iraqi Ministry of the Interior" (Isenberg 2008b). It is interesting to find that just as with the ROC system, it has once again been deemed appropriate to partially privatise – apparently to the same firm (i.e. Aegis) – the new systems of state/departmental oversight, control and coordination of PSCs (e.g. SIGIR Audit Report, January 14, 2009: 20).

As another example of this, a DOS/DOD Memorandum of Agreement (MOA) on US government private security contractors was signed in early December 2007, establishing a new, interdepartmental framework to deal with the use of PSCs in Iraq. Basically, the Agreement establishes a joint agenda where a number of the issues regarding the use of PSCs by the US government are addressed. For instance, it outlines a common language for the Rules for the use of force, it articulates regulation concerning the possession of firearms, and it establishes procedures for incident response and investigation as well as movement coordination and control (DOS/DOD MOA, December 2007). That the efforts to improve coordination and control are ambitious and far-reaching is clearly indicated by the changes suggested or put in place by the DOS and the DOD. In terms of functional control, increasing regulation and creating mechanisms for coordination would, ostensibly, make it less likely that the functional gains of security privatisation are undermined.

At the same time, however, placing Diplomatic Security agents with PSCs in the field or creating comprehensive systems of audio and video surveillance also means that state resources are diverted to creating expensive control mechanisms. Certainly, the DOS "ride-alongs" will increase knowledge about the company's behaviour and may serve as a deterrent against improper or unlawful behaviour. However, it has also been suggested that in practice, the DOS agents will serve as "chaperones" but without operational command and without authorisation to take contractual or legal action (Isenberg 2008a: 84). In turn, this suggests that the functional gains that were originally predicted to come out of privatisation will need to be reassessed. In addition, these efforts to improve cooperation and communication that have put in place rather hastily after the Nisour Square incident may not be able to resolve all problems related to the relationships between state and non-state actors. For instance, the DOS/DOD Agreement does not seem to take into account or address questions of perception or attitudes that influence cooperation and communication. In addition, addressing these problems presumably requires a longer perspective since negative perceptions and attitudes are not likely to change rapidly. The structures put in place (seemingly as a result mainly of one company's behaviour) may in fact increase friction if PSCs feel that they are being too closely or intrusively supervised that the contracting agencies and/or the military have doubts about their abilities or professionalism.93

As we have seen, security privatisation may enhance the functional control of force, for instance by allowing states to outsource certain services and functions

<sup>&</sup>lt;sup>93</sup> Here, a parallel can be drawn to work on civil-military relations. From a principal-agent perspective, Feaver has shown how intrusive monitoring mechanisms designed to increase civilian control and knowledge about military operations may also affect negatively the ability and willingness of the military to carry out its missions (Feaver 2003).

to businesses in "the market for force" instead of producing or financing them on their own (Avant 2005). In the case of Iraq, it is clear that a situation has been created where the provision of security- and military-related services by PSCs is (perceived) as indispensable to the security and reconstruction effort. Yet it is also clear that the contracting of a large number of companies in 2003/04 to provide site security, convoy escorts, military/police trainers, intelligence analysts and PSDs to civil servants and to make reconstruction projects possible created several serious (and apparently unforeseen) problems related to functional control. While efforts have certainly been made to improve coordination and oversight since then, the ramifications of these changes for state control cannot be fully understood unless analysed in relation to additional aspects of the political and social dimensions of control.

## 8.2. Political and Social Control and the Case of Iraq

To reiterate, the political control of force is about the adherence of force to political structures and the subjugation of force to political or civilian/democratic rule and decision-making. With privatisation, political control may change if decisions about the use of force are redistributed among actors. Closely connected to this dimension of control is the less straightforward category of social control, which stipulates that the use of force can be more or less consistent with social values and norms, such as democracy, human rights, international law and the norm of civilian control over the military. Again, the problem with the category of social control is that it is unclear exactly if and to what extent these norms are institutionalised and how they determine or restrain behaviour. While one may, as Avant does, analyse social control by investigating whether norms and values are referred to by different actors, this does not completely resolve the fairly substantial difference between proclaiming adherence to a norm or value and acting in accordance with them. Yet this dimension of control is important and deserves to be probed further, hence the discussions on professionalism and "proper" behaviour below.

The privatisation of security in a case such as Iraq is not merely about letting private companies supply armed security guards, military trainers or intelligence analysts in an unstable environment. As the previous section on functional control has clearly shown, the privatisation process also creates new levels of decision-making and places private companies in a position where they influence and make decisions about the organisation and deployment of the instruments of force. This transferral of responsibility and influence points to potential problems of political control of force in a case with well over a hundred private security companies performing a wide range of tasks. Given this large number of companies with well over 20,000 employees from a number of different countries, another central question is of course how this may impact on the integration of

force with different aspects of "international" values and norms. This section will pay attention to a number of examples indicating changes to both political and social control of force. It will also point to the close linkages between these dimensions and that of functional control. As questions concerning political and social control include political processes and ethical standards, the analysis sometimes goes beyond situations or incidents on the ground in Iraq.

### 8.2.1. Selecting and Screening the Instruments of Force

One concrete example of political control of force is the state's ability to select the persons that are going to make up the "violent institutions" such as the military (Avant 2005: 59). Outsourcing the selection process to private companies means that the state has, to some extent, lost the ability to use screening and selection mechanisms to ensure that "the right sort of agent" is being authorised and contracted to use force (Feaver 2003: 78). Of course, this does not meant that screening and selection procedures by (democratic) states or "accession policies" adopted by state militaries or agencies is inherently better, only that it is more likely to be transparent and subject to some form oversight (ibid: 79). In relation to Iraq, the vetting of prospective PSC personnel is to a large extent the task of the companies themselves. For instance, the WPPS II Contract between the US State Department and Blackwater, Triple Canopy and DynCorp states that the contractor shall screen and select applicants, although the screening process must be approved by the State Department, who also runs background checks on the applicants (WPPS II Contract). In this case, the department retains a fairly high degree of control over the selection and screening process. Yet, as the GAO points out, many other PSCs that conduct criminal background investigations subcontract this function to screening firms (GAO 2006: 10). Introducing another layer in the process essentially removes the selection and screening of persons authorised to use violence further from the state. On a general level, then, it is reasonable to suggest that security privatisation changes this particular aspect of political control.

The fact that outsourcing security services places the task of vetting and screening in the hands of private companies does not necessarily imply that PSCs are more casual about these issues than state agencies. As Isenberg observes and as several company representatives have pointed out in their comments during interviews, most established companies subject their prospective staff to rigorous vetting procedures, including credit histories and psychological evaluations (Isenberg 2007: 86; Isenberg 2008a: 106ff). Still, there are instances in the Iraq conflict that points to inadequate vetting of personnel by PSCs. In addition, there are examples where problems of selection seem to have originated not with the security companies, but rather with the contracting agencies themselves. The questions and concerns about the quality of PSC personnel are closely related to

the social control of force. What norms and values are these persons expected to represent, promote and/or abide by, and are these expectations realised? The fact that vetting procedures (or codes of conduct for that matter) are put in place is indicative of the importance that contracting agencies and PSCs ascribe to certain norms and values, but it does not necessarily tell us much about the actual behaviour of security company employees in the field.

As pointed out above, there are many indications that the massive increase in the demand for security services in 2003 and 2004 caught state agencies, reconstruction companies and security companies off guard. One sign of this can be found in the formulation of criteria for security contractors by contracting agencies. Basically, contracting agencies such as the DOD do play important parts in shaping the contractual framework within which the desired qualities of the agent (the PSC) can be articulated. However, if requirements are not specific enough or out of touch with the situation on the ground, there might be problems if the wrong person/agent is hired to perform vital security services. Examples of such problems were apparently common in the early days in Iraq:

The original DOD contracts under the Coalition Provisional Authority, the CPA, was that an individual, going over in a war zone, carrying a gun, had to have prior military or law enforcement experience. The type and length of military experience was not specified. Although the individual applying may have met the basic contractual requirements this did not mean he was qualified to carry a gun as part of a PSD [Protective Security Detail]. (Interview, L. V. Arsdale, 2007, emphasis added)

This is clearly an example of the contracting agencies not being specific about the qualifications or backgrounds of personnel being contracted to perform armed services in a conflict zone. Effectively, this meant that private companies were left in charge of the selection process and of specifying selection criteria. Under these circumstances, state authorities had little or no direct control over persons hired by the companies. Recalling the quote from the interview with Colin Powell above, it would be difficult to argue from a functional perspective that PSC employees are "qualified contractors" when these qualifications are not specified. On the same note, the lack of adequate oversight mechanisms - especially in terms of contract officers – has been noted by several commentators; for instance, Singer notes that while the number of contracts has increased, the number of contract officers has decreased (Singer 2007: 11; also, Isenberg 2007; Dickinson 2007; Elsea and Serafino 2007; Gansler Commission Report, October 2007: 41ff). Without proper oversight, the ability of the state – in this case the US – to enforce rules and policies, and to identify misbehaviour and fraud, is seriously hampered. So, why this lack of substantial oversight and enforcement mechanisms? A simple answer that can explain this from a functional economic perspective would be: enforcement is costly. It is costly to find out if a contract has been violated, more costly to measure the extent of the violation, and still more costly to apprehend

and impose punishment on the violator (North 1990: 58; cf. Dickinson 2007). This means that putting in place comprehensive regulatory schemes or oversight and enforcement mechanisms that would strengthen political and social control might be seen as decreasing the relative economic and thus functional gains of security privatisation.

The rapidly increasing demand for private security in Iraq in 2003/04 meant that both established and new security companies found themselves pressed to recruit personnel quickly and extensively. Donald describes how previously established recruiting patterns were cast aside when companies rushed to find additional (and cheaper) staff to be able to take on the contracts (Donald 2006: 17). US and UK companies unable or unwilling to recruit persons with Special Forces training (e.g. because these were unavailable, over-qualified or too expensive) turned to other options and other countries (e.g. South Africa, Nepal, Iraq, Israel, Canada, New Zealand, Chile etc.) to find the staff they needed (ibid; Isenberg 2004: 23f). As the number of security contractors from different countries increased, the number of problems related to selection and screening mounted. For instance, the GAO noted in 2006 how the use of Iraqis and third country nationals by PSCs frequently made it more difficult for the DOD and companies alike to perform background checks, either because of a lack of reliable information or because of privacy laws of some countries (GAO 2006: 10ff). As a result, "it may not be possible to know the true identities and backgrounds of the thousands of private security provider employees working in Iraq" (ibid: 10). Incomplete background screenings may, the GAO concludes, "contribute to an increased risk to military forces and civilians in Iraq" (ibid: 15; also Isenberg 2008a: 106ff). Essentially, while security privatisation provided much-needed services to state agencies and other private companies (increased functionality), it did so at the price of decreased control over the individuals providing these services (problems of political control) and, as will be argued below, to some extent at the price of lower levels of professionalism (problems of social control).

## 8.2.2. Professionalism and "Proper" Behaviour

This section starts off with a timely observation by Chesterman and Lehnardt that touches upon one important aspect of social control. As these authors rightly point out, "[i]t would be naïve, of course, to assume that traditional armed forces are necessarily virtuous and private armies inherently harmful to public interests" (Chesterman and Lehnardt 2007: 2). In other words, in spite of rigorous screening and selection procedures and codes of conduct, adherence to social (or "international") norms and values cannot be taken for granted in relation to (Western) armed forces, nor can one presume that PSCs are inevitably out of touch with these norms and values. This means that even though many actors (military commanders, politicians, PSC representatives) can be expected to pay

lip service to what is considered "good" or "proper" behaviour, such statements do not automatically mean that they are highly institutionalised, i.e. that there is a strong relationship between the these norms or rules and the behaviour of actors. Having said this, the remainder of this section will look closer at some challenges to social control in the case of Iraq.

In line with the observation above, adherence to professional standards or "international" values does not have to diminish as a result of security privatisation. On the contrary, many of the large companies hire ex-military personnel from crack regiments of Western militaries whose presumed commitment to these values they bring with them to the private sector. As a result, states such as the US and the UK contracting with companies whose personnel stem from their own militaries do not necessarily feel that they have to worry about maintaining social control. In addition, many British and American companies have strict ethical guidelines and codes of conduct that employees have to accept. For instance, Triple Canopy employees have to sign an extensive "Code of Ethics and Business Conduct" annually, and breaches of these codes may cost a person his or her job (Interview, L.V. Arsdale, 2007). Similar standards have been outlined for members of business organisations such as the IPOA and the BAPSC. However, even if problems of social control do not follow automatically from security privatisation, there are many indications of such problems in the case of Iraq.

Asked to describe the characteristics and qualifications of persons employed by PSCs in Iraq in 2004/05, one respondent replied:

I met a fair amount of people down there and my impression is that it is a Klondike that attracts all different types of people. You've got everything from people with an incredibly solid military education to fortune-seekers and mythomaniacs. You will find the whole spectrum of people there (Interview, Anonymous 01, 2005)

In the same vein, Robert Young Pelton reports that during his time in Iraq, he met "former Apartheid-era enforcers, dictators' body-guards, bounty hunters, and mercenaries" but also "seasoned cops, decorated veterans, and highly educated intellectuals working on the same teams" (Pelton 2006: 343). Indeed, far from every employee of a PSC in Iraq is a former member of a US or UK Special Forces unit. In their quest for persons to work under contracts in Iraq, some companies have reportedly employed – knowingly and/or unknowingly – bouncers, convicted terrorists, ex-Apartheid era soldiers and former Chilean commandos, some of whom had served during the Pinochet era (Kinsey 2006: 107; Elsea and Serafino 2007: 11; Singer 2004: 9). Even though many companies have worked to increase their control of prospective employees, problems with people lying about their background, education, or criminal records (and getting away with it) have been common (Interview, Anonymous 02, 2005; Isenberg 2004: 46f).

As Kinsey rightly points out, this situation is cause for concern about the calibre of staff providing security services in Iraq (Kinsey 2006: 107). In view of the examples given above, it deserves to be repeated again that professional standards, respect for human rights, or abidance by the laws of armed conflict cannot be taken for granted. Certainly, the cases cited above do not pretend to be representative of the industry as a whole, but they nevertheless indicate serious challenges to social control for state clients – especially as there is a lack of oversight mechanisms to ensure compliance with these values and rules. As mentioned previously, companies as well as business organisations and state agencies have made efforts to improve the situation. Even though individual companies may have strict ethical guidelines for their staff, there is still no comprehensive and standardised control of these by government agencies (Isenberg 2007: 86). Creating more advanced systems for oversight and accountability of PSCs in Iraq (e.g. similar to those that apply to military forces) would not automatically resolve all the problems identified above. However, such a move on part of contracting states would mean that commitment to existing rules and norms be made more explicit and – at least hypothetically – enforceable.

While codes of conduct, ethical guidelines etc. do exist within industry associations, membership in business organisations such as the IPOA, the BAPSC and the PSCAI is voluntary. The organisations publicly promote and make member companies sign codes of conduct, including, for instance, respect for human rights and the laws of war. If companies violate these rules, they may be expelled or punished financially (Interview, J.J. Messner/IPOA, 2007; Schulz and Bearpark 2007). Importantly, however, the organisations depend on their members for their financing (and existence), potentially making matters of investigation, expulsion and punishment more complicated. One illustrative example involves the withdrawal of Blackwater from the IPOA following the aforementioned Nisour Square incident in September 2007. Apparently, Blackwater left the organisation before the IPOA could launch and investigation into the events. Shortly after the incident, the IPOA Stated in a press release:

IPOA is actively working with Blackwater, both through our Standards Committee and our Executive Committee, to ensure that they are fully compliant with the IPOA Code of Conduct. The Standards Committee is following a compliance process that will enable the Association to enforce the standards that are set forth by our Code of Conduct. IPOA takes the current situation in Iraq very seriously, and does not condone reckless or dangerous behavior (IPOA Press Release, October 5, 2007).

The statement clearly indicates that the IPOA intended to investigate the incident. Then, on October 12, another press release was issued, stating that Blackwater had withdrawn their IPOA membership on October 10, only two days after the IPOA's Standards Committee had been authorised to launch an investigation into the company's conduct (IPOA Press Release, October 12, 2007). Obviously, the

withdrawal of Blackwater from the IPOA calls into question the organisation's ability to police or enforce its code of conduct (Isenberg 2008a: 81).

However, changes in social control may not necessarily be seen as a problem by states at all, or it may be deemed an acceptable "cost". In fact, such changes may be seen as advantageous and as a way of conducting foreign policy by proxy (with the possibility of denying responsibility if things go wrong). For example, in Iraq, the US have intentionally chosen to contract some "cowboy" companies - i.e. companies that are willing to take on "dicey" tasks, that are willing to take risks and that "act like soldiers, not businessmen" (Avant 2005: 226, 227, 228). Along similar lines, it has been suggested that the reluctance of the US (and the UK) to control the companies more tightly and to investigate (and prosecute) suspected crimes by security contractors may be a function of "deliberate and wilful tendency to ignore evidence of contractor malfeasance" (Caparini 2008: 182). While these choices might appear to make sense from a narrow functional perspective, they also raise questions about the impact of hiring these companies on the norms and laws that supposedly govern the use of force. 95 This is especially relevant in the case of the United States, whose choices and preferences as the dominant state "consumer" of PSC services presumably has an impact on the market in Iraq and globally and the ways in which the practice of using private companies is legitimised.

Again, a case in point is the conduct of Blackwater in Iraq. United States House Committee investigations and Senate hearings indicate that Blackwater personnel in Iraq have been involved in nearly 200 escalations of force/shooting incidents since 2005, including the Nisour Square incident in September 2007 that resulted in over a dozen casualties. In the majority of these cases, company personnel allegedly fired the first shots (House Committee, October 2007). As mentioned above, Blackwater is one of three PSCs providing services to the State Department under the WPPS II contract. The question, of course, is whether the seemingly aggressive behaviour of a particular company is a function of a conscious trade-off between functional and social control on part of the contracting state. While no satisfactory answer appears to be available, Dominick Donald of Aegis expressed it in the following rather thought-provoking way:

<sup>&</sup>lt;sup>94</sup> Avant identifies two models of professionalism among private companies: "the 'cowboy' model that privileges the effective use of force and the 'starched shirt' model that privileges international values" (Avant 2005: 226). The choice, seemingly, is between functional and social control of force.

<sup>&</sup>lt;sup>95</sup> From a functional perspective, such "cowboy" behaviour may of course cause problems if it works against the purposes of the contracting state. These problems brings to mind the case of the American filibusters of the nineteenth century such as William Walker, whose unofficial or "private foreign policy" created problems and embarrassment for the US Government (Karlsson 1996: 33f).

Now, Blackwater has come in for a lot of flak over the way that it conducts itself in Iraq. I think one has to bear in mind the principal contract, or certainly the most visible contract that it's got, protecting US State Department people, pretty much requires that they behave in that fashion. I'm not sure that any other firm doing that job would be able to do it any different. The reality is that the US State Department is not going to allow one of their people to go out to a meeting in a beaten up, old Toyota, wearing a rag over his head, escorted by three blokes, maybe two of them or one of them Iraqi, and one or two of the others being Westerners with big beards and heavy suntans. They're just not going to allow that. (Interview, D. Donald, 2007)

What Donald suggests is essentially that the behaviour of companies such as Blackwater is a function of the requirements or expectations of the client, in this case the US State Department. If adopting a lower profile is not in line with the client's wishes, then chances are that companies will stick to a behaviour that is expected and promoted by the client. However, if the behaviour on part of some PSCs in Iraq is interpreted as aggressive, this may contribute to the increasing targeting of public and private actors alike (Bjork and Jones 2005). Thus, if, in the eyes of "insurgents", some companies are seen as part of the coalition of armed forces and thus part of the threat to their security, then not only can this put armed forces at risk, it may also contribute to increasing insecurity for PSCs and their state or non-state clients. As indicated above, the effects of such behaviour can be seen as running counter to the mission of the coalition forces and thus decreasing functional control. True, state clients may influence social control by their "consumption patterns", and can choose to promote certain behaviour. However, in order to promote (what is seen as) good or desired behaviour, state agencies or officials would also need thorough knowledge and oversight of that behaviour. In the case of Iraq such knowledge and oversight have - due to insufficient oversight mechanisms – frequently been in short supply, especially outside Baghdad (Interview, Anonymous 02, 2005).

## 8.2.3. Rules of Engagement - a Political Leash on PSCs?

Discussing restrictions that supposedly shape PSC behaviour, it is interesting to circle back to another aspect of political control, namely the Rules of Engagement (ROE) that govern the use of force by members of the armed forces and PSCs. For private companies, these are normally referred to as the Rules for the Use of Force or RUF and they specify in great detail the conditions under which force and deadly force may be used and give directions about the ways in which the threat or use of force may be properly escalated. In a civil-military relations context, ROE are important to the political control of force because they restrict military autonomy, proscribe certain behaviour and require that the military report up the chain of command and inform civilian principals about operations, thus

indicating when the rules need to be changed. As such, the ROE are "both a leash on the military and an information source for senior leaders, civilian and military" (Feaver 2003: 77). Thus, as "long as the military operators do not 'pull' on the leash, the senior commanders know that the pace of the military operation is less than the bounds set by the rules" (ibid.).

Certainly, there are rules that govern the use of force by private companies working for the coalition in Iraq (Isenberg 2004: 42; Isenberg 2007: 88ff). For example, at the RUSI (Royal United Services Institute) conference on Rules of Engagement on July 18, 2006, Tim Spicer, Chief Executive Officer of Aegis, said that Aegis personnel working in Iraq are operating under US CENTCOM (Central Command) RUF. Moreover, Aegis has its own ROE/RUF that specifically outlines the circumstances under which the use/threat of force can be escalated and how this should be done (Spicer 2006). Lee van Arsdale of Triple Canopy also points to the existence of ROE/RUF: "My guys know exactly what the rules are that define their use of firearms and their use of force, they're well spelled out" (Interview, L.V. Arsdale, 2007). The existence of these rules notwithstanding, it seems as if there is still some way to go before the ROE/RUF can be seen as an effective leash on PSCs. One apparent problem has to do with information and feedback. Although all incidents should be reported up the chain of command, there have been many incidents where armed force has been used that have gone unreported, especially outside Baghdad and the so-called Green Zone (Interview, Anonymous 02, 2005). Also, there seem to be some problems with the roles that have been envisaged for PSCs. Commenting on the rules for using armed force, Simon Falkner suggests that while there are ROE/RUF, "they don't entirely take into account the sorts of situations you can find yourself in" as a private security provider (Interview, S. Falkner, 2007). Writing about the incident in 2004 when a PSC became engaged in a fire fight at the CPA headquarters in Najaf (cited in the introduction to this study), Pelton observes that while the ROE "allowed contractors to fire in defense of their lives, the formulators of those rules had not anticipated contractors being dropped into a situation where they would have to engage in hours of combat" (Pelton 2006: 154).

In some of these situations, the ROE/RUF seem to have worked less well because feedback mechanisms were defunct or even non-existent. In other situations – and probably as a consequence of the idea that PSCs should only be allowed to perform "protective" or "defensive" functions – the rules appear to be inapplicable to the needs of PSCs to defend themselves or their clients. Hence, the intention of the ROE/RUF functioning as a leash on PSCs and as a tool for the political leadership to control and direct the instruments and use of force appears – at least in these situations – to be challenged. Under these circumstances, there is a clear change of the political control of force since the use of force is no longer subjected to the directions of the political/civilian leadership. Of course, these challenges to political control do not have to entail corresponding challenges to

functional control; that is, the ability of the companies to work effectively is not necessarily affected negatively in the absence of political or civilian directions and decisions. However, problems of unreported uses of violence due to lack of communication suggest that on some occasions, PSCs are indeed "pulling" on the leash without the "civilian masters" knowing about it (or ignoring it).

#### 8.3. Conclusions

As this analysis of security privatisation and state control in the case of Iraq reveals, the hopes for increased effectiveness and flexibility (and thus functionality) on part of state actors such as the US and the UK have not always been realised. For instance, the lack of organised and structured working relationships between PSCs and state militaries has sometimes generated increased friction. Moreover, the problems of coordination, cooperation and communication that were pointed out above have limited the possibility of making functional gains and have meant that the use of private companies has occasionally worked counter to the mission of these states. Structures and oversight mechanisms put in place have been aimed at dealing with certain aspects of these problems and appear to some extent to have been successful. However, creating structures of control and oversight has also meant that state resources have been diverted, potentially decreasing the relative functional gains that were initially expected to come out of privatisation.

The extensive use of PSCs in the case of Iraq has also created challenges to social and political control. Without proper structures in place, privatisation means that the ability of the state to select and authorise the "right" kind of agent to use force on its behalf diminishes. What is considered right in this context will of course vary across states; the point here is that privatisation has made it more difficult for states to know who is working for them and who is authorised to use violence on its behalf. This in itself is a problem of political and social control. In addition, privatisation has made it more difficult to draw sharp lines between public and private actors and actions. Moreover, the behaviour of these commercial actors has sometimes indicated a poor integration with professional standards and values. When the behaviour of PSCs is seen (e.g. by the Iraqi government, by Iraqi civilians, by other states or by international organisations) as running counter to more or less established norms and rules, this will create problems for contracting agencies and states, regardless of what value they (or the companies) assign to such norms and standards.

It is clear that the three dimensions of control are closely connected. For instance, changes in social control that result from privatisation may be deemed acceptable if the primary motivation and goal is to increase capabilities. In her analysis, Avant points to a number of "trade-offs" between different dimensions of control, and the example above appears as one such trade-off that contracting states or

agencies may be considering (Avant 2004 and 2005). However, in a case such as Iraq, it appears unfortunate to talk about trade-offs only in terms of conscious strategies. This is especially so since so many of the changes and challenges to state control identified and discussed above appear to have been unforeseen and unplanned consequences of security privatisation. Several examples, such as the apparent mismatch between contractual arrangements or selection criteria and the situation on the ground, point to a lack of comprehensive planning for privatisation on this scale. When problems have been discovered, structures have generally been put in place to increase control and oversight, leading to new changes to state control. A case in point is the RSSS contract and the creation of the ROC system to improve coordination and thus functional control. The effect was not only that private companies were suddenly better coordinated and that the military gained information about PSC movements, the system also placed a private security company in a position to influence state agents and contractors' knowledge understanding of the security situation as well as decisions about the organisation and deployment of force.

In sum, this chapter has shown how security privatisation in the case of Iraq changes state control of force in a number of ways and in different directions. Many of the specific changes and challenges are unlikely to be replicated in other cases, but the case of Iraq does provide us with several important insights into the way in which security privatisation takes place and points to some consequences for state control. On a theoretical level, the use of central ideas and concepts in the civil-military relations literature to address the question of control is useful because it situates the analysis of security privatisation within an established framework, and it enables a multifaceted understanding of state control of force. Even so, it is quite clear that much civil-military relations theory is biased towards a specific reading of the state where the ideal of state control of force is key and where a basic premise is the fact that the military organisation is to a large extent part of the state bureaucracy. As this study has shown, differences between the military and PSCs make questions about the organisation and control of the instruments of force and protection more complex. To understand how security privatisation changes and challenges state control, it is necessary to venture outside established modes of analysis and ideal models and to acknowledge the need for a multidimensional and non-traditional approach. This study has taken important steps in this direction by showing how prospects and problems associated with the privatisation of security can be fruitfully analysed in relation to the functional, political and social control of force. Also, this investigation of security privatisation in Iraq reveals that the relationships between – as well as the intermingling of – public and private actors are significant to identify and explain the ways in which security privatisation changes and challenges state control.

## 9. Conclusions

Drawing on a recurrent theme in the literature on security privatisation, the basic point of departure for this thesis was the observation that theoretically, the increasing use of private companies to perform security and military services represents a challenge to dominant conceptions of the state as a monopolist of violence and related assumptions about the primacy of states in the provision of protection and the conduct of war. In the course of this investigation, it has been shown how the privatisation of security, and in particular the turns this phenomenon has taken in the case of Iraq, reveals the common assumptions that the "control, sanctioning, and use of force fall to states" to be seriously flawed (Avant 2005: 1). Yet, the study has also shown that the privatisation of security cannot merely be construed as a breakdown of state monopolies of violence or an erosion of the sovereign state as we know it. Such an argument would entail accepting a widespread but deceptive reading of an ideal image of the state whose validity outside the realm of theory is highly questionable – especially from a historical point of view. Instead, it has been argued, the recent development of the practice of using non-state forms of violence and protection should be understood in a wide perspective where the shifting "relationship of the state to violence" that Weber spoke of is placed centre stage. Through such an approach, the use of private companies in cases like Iraq appears less extraordinary and more like a re-legitimisation of practices that have a long history. At the same time, it must be acknowledged that the contemporary privatisation of security is taking place in a context where a high level of (democratic) state control of the instruments and use of force by states for some time has been widely accepted as the norm or ideal.

Building on these arguments, this thesis has investigated the privatisation of security in relation to the problem of state control of force. The central objectives have been to situate the recent expansion of the market for private security-and military-related services in a wider historical perspective and in relation to processes of state formation and change, as well as to investigate empirically how changes and challenges to state control of force have developed in the ongoing conflict in Iraq. Working towards these aims, three research questions linked to the overarching theme of the relationship between the state and violence have been probed, yielding several important insights that were highlighted in the concluding sections of the preceding chapters. The remainder of this final chapter is divided into two sections, the first of which will recapitulate and develop the main findings of this inquiry in relation to the three research questions. The second and final part will briefly discuss the contributions as well as the limitations of this thesis in a wider perspective and point to some questions and avenues for further theoretical and empirical research.

# 9.1. Question 1: The State and Violence in a Historical Perspective

The first question was derived from the argument that although the privatisation of security can be viewed theoretically as a challenge to the idea(l) of a state monopoly of violence, variation has been, and presumably continues to be, a central feature of the relationship between the state and violence. Hence, in a wider perspective, it is more helpful and to the point to think about post-Cold War security privatisation as a continuation of private security and military activity from the past, rather than a deviation. To show how the privatisation of security links up with issues of state-violence relationships in a broader perspective, and to be able to make connections between past and present actors and structures, the first question was phrased as follows:

How has the relationship between the state and the instruments and use of violence shifted historically and how are these changes related to the contemporary privatisation of security?

To begin to address this question, a specification of how the state is theoretically conceived was required. As demonstrated in Chapter 5, deterministic approaches to state formation and allied assumptions about state *monopolies* of violence – often associated with the so-called realist or neorealist approaches in the field of International Relations – are problematic because they are rarely qualified and because they miss (or disregard) the variable nature of the relationship between states and violence. To problematise these assumptions, this thesis has drawn upon a critique of dominant theoretical frameworks where the relationship between the state and violence is either taken for granted (in an ahistorical manner), or treated as the product of a more or less linear and development or evolution.

Problematising conventional readings of the state through the theoretical and empirical work by authors such as Tilly, Thomson and Finer, several points were made that are of central relevance to increasing the understanding of security privatisation and issues of state control of force in a wider view. One significant observation to come out of this part of the investigation was that what is actually new is not the provision of security and military services by non-state entrepreneurs, but rather the high level of control over institutionalised, state-owned instruments and uses of force by consolidated states and their bureaucracies that characterises the late modern period. To be sure, the ability of states to amass and control the principal means of violence and coercion has been of central importance to their development and rise to prominence in the modern period. Yet so have their ability to utilise non-state forms of violence and protection in the form of mercenaries, privateers or mercantile companies. Importantly, these practices were never abandoned or outlawed across the board, and it was only in the period after the French Revolution that anything resembling substantial

state monopolies of violence developed. In view of the relative newness of the close relationship between the modern state and violence as observed by Weber, coupled with the endurance of different forms of non-state violence and protection, the accelerating privatisation of security in recent decades does not appear excessively far-fetched

Also, adopting a broad view clearly shows that it is misleading to claim that security privatisation is merely a post-Cold War phenomenon or a development linked exclusively to the logic of the so-called "new wars". This is not to say that history is simply repeating itself and that what is occurring in Iraq and other places is necessarily an indication of the return of mercenary or private armies in the service of state and non-state clients. On the contrary, it has been shown that the private security companies that have been the focus of this investigation are not mercenaries in the traditional or international legal sense of the word, nor are they military forces in their own right. Yet the large-scale employment of private security companies by states such as the US and the UK in the case of Iraq signals an expanding use of non-state violence and protection and corresponding changes in the relationship between states and the instruments and use of force.

In my investigation, I have argued that this development should be understood in terms of state change rather than as a sign of state erosion or decay. Hence, security privatisation, as in the increasing use of PSCs to perform or deliver what has been (or been seen as) public functions or public goods such as security or protection, is in line with arguments about the "marketization" of state activities and functions in the context of globalisation. As the analysis shows, security privatisation does not spell the end of sovereign statehood, even if it does alter several characteristics conventionally associated with both sovereignty and statehood. This makes sense when sovereignty is understood as an international institution whose meaning and associated practices (or regulative rules) can and do vary across time and space. In this context, the privatisation of security indicates a change in the rules that regulate or determine how sovereign statehood may be practiced or, more concretely, what security- and violence-related activities are accepted by states in their dealings with each other.

In Chapter 5, it was also pointed out that in the process of state formation in Europe, non-state forms of violence and protection were widely employed by states and states in the making. However, these practices created a number of unintended and unwanted consequences and conflicts that contributed to their disappearance, at least on a large scale. In the process, national standing armies were created and gradually, the business of war became associated with states and seen – particularly in the Clausewitzian framework – as subordinated to and directed by political goals and leadership. To an increasing degree, those authorised to use force on behalf of the state were parts of permanent, specialised and professional state agencies such as the armed forces and the police, rather than

free companies or bands of mercenaries operating on a more or less international market. Over time, states were increasingly able to claim a near monopoly of the legitimate use of force both inside their own territories and internationally. The shift from the heavy reliance on private or non-state forces to a high level of control and ownership of the instruments of force – although gradual and haphazard rather than uniform and prearranged – was indeed a substantial change in the relationship of the state to violence on a general level. However, as S.E. Finer rightly points out, states' control over violence has been, and continues to be, a matter of *degree*. In this perspective, the privatisation of security appears to signal a movement along a continuum towards a lower level of state control of force, rather than as a hollowing out of the state as such.

Even if different forms of non-state violence and protection have continued to exist in the international system and although state monopolies of violence were never complete or permanent, the substantial post-Cold War increase in the use of private companies to provide security- and military-related services suggests that private actors such as PSCs are gradually becoming more important. As shown in Chapter 6, this development was the result of a number of complex and interrelated factors, events and changes. Structural changes such as military downsizing following in the wake of the end of the bipolar order that was the Cold War, the acceleration of globalisation, and an increasing number of violent internal conflicts in the early 1990s have shaped the increasing demand for private security and military services. Added to these changes were the spread of privatisation policies and processes across state sectors since the early 1980s and a growing willingness among states and international institutions to pursue market oriented solutions to social problems, including those related to the provision of security and protection. Finally, it was also pointed out that the increasing demand for privatised security is closely linked to the changing nature of armed conflict and the responses to these conflicts, as well as to the growing acceptance of private companies as active parts of the solutions to what is perceived as new and increasingly complex security problems and threats, particularly after September 11, 2001.

Within this set of complex changes and processes, the roles and functions conventionally attributed to the state – such as the primacy of states and state militaries in armed conflicts or the central position of the state as provider of protection – are called into question. From this point of view, the accelerating privatisation of security in the post-Cold War period is seen as an expression of state change, where states takes a step back from some of their previous roles, for instance as producers and/or financers of security- and military-related services. In turn, such changes are in line with (and shaped by) ideational and ideological shifts increasingly favouring commercial alternatives in an increasing number of areas, including security. On the one hand, this development is closely connected to events and processes of recent decades and thus takes place in a qualitatively

new context; on the other hand, the today's privatisation of security has clear historical connotations and should also be construed as the re-emergence of non-state and commercial forms of violence and protection, albeit in new shapes and forms and adapted to the globalised environment in which they operate. This increasing role for non-state or market actors – particularly in the context of violent conflict – restructures the ways in which the instruments of force are put together, organised and deployed, and creates challenges to conventional civil-military relations thinking and established modes of state control of force.

To sum up, this thesis does not claim to have provided an exhaustive answer to the question of how state-violence relationships have shifted in the past, nor can it claim to have explained fully how and why security privatisation has accelerated in recent decades. However, it does claim to have pointed to the limitations inherent in state-centric images of the state's presumably monopolistic relationship to violence and instead demonstrated the usefulness of understanding ongoing processes of security privatisation in a wider perspective of state development and change. In addressing the first research question, it has been shown that the relationship of the state to violence has been, and continues to be, complex and shifting and therefore, a state monopoly of violence appears as a distant ideal rather than as a more or less permanent quality of sovereign statehood. Yet, to figure out how the relationship between the state and violence is shifting and what this means in terms of state control of force or the lines of distinction between public and private or civilian and military, it is necessary to look closer at current indications of such change. In this study, I have turned to the case of Iraq to address questions about security privatisation and state control of force, starting with the important question of what is being privatised.

## 9.2. Question 2: Security Privatisation in the Case of Iraq

To provide a much-needed structured mapping of the privatisation of security in a case such as Iraq, this project has relied on a concept of privatisation that allows for an identification of different types and/or patterns of privatisation, as well as changes over time. This is important because it carries analysis beyond oversimplified images of security privatisation as the replacement of the state by private actors or "the market". Drawing on Lundqvist's threefold division of the concept of privatisation, a second research question was devised:

How is security privatisation realised in the context of armed conflict and particularly in terms of the production, financing and regulation of security-and military-related services?

The idea behind this question was to facilitate a structured description and analysis of the major trends and patterns of security privatisation in the case of Iraq by looking specifically at the production, financing and regulation of security and

military services. Breaking down the concept into three basic categories serves the purpose of facilitating a multidimensional analysis of cases of privatisation well. Importantly, talking about basic types and combinations also means avoiding the many difficulties involved in making judgements about the degrees of privatisation in different cases or situations.

As discussed at length in Chapter 3, there are many problems with the concept of privatisation, for instance in that it presupposes some form of public control or ownership and because it has been constructed primarily with consolidated welfare states in mind. On the other hand, this investigation has shown that the concept is useful in research on the use of PSCs, particularly when privatisation is considered as an active process whereby a service or an activity that has been, or been seen as, a public responsibility, is transferred to the private sector. The active element is key because it underscores the point that conscious political decisions lie behind most privatisation processes, even if there are instances were governmental inactivity may also result in the transferral of public matters (e.g. protection) into the private sphere. Hence, the privatisation of security is not something that just happens to states or organisations. Even more important is the observation that the clear-cut analytical distinction between public and private implied by theoretical models of privatisation (or in conceptual discussions on the state and sovereignty) only rarely fits the empirical world. The artificial nature of the distinction between public and private (or state and non-state) actors both historically and in the specific case of Iraq highlights the problem of interpreting the issue as being about either private or public. Judging from the case of Iraq, it definitely makes more sense to talk of shifting mixes of public and private actors and activities where sharp delineations are difficult to make.

Investigating security privatisation in the case of Iraq, it soon becomes clear that PSCs were engaged early on in the conflict to provide a wide range of securityand military-related services to both state and non-state clients. Estimates in 2004 put the figure at around 20,000 people being employed by PSCs in Iraq; in 2006, figure was thought to be closer to 50,000 people working for around 180 companies (Rumsfeld 2004; GAO 2006: 2). The vast majority of these companies work for other private companies, who in turn work (as prime or subcontractors) on different reconstruction projects. Yet US and (to a lesser degree) UK state agencies have also contracted directly with several PSCs to provide protective services to guard facilities, convoys and personnel, or to coordinate the activities of other PSCs. Even though the access to reliable information about the specific number and contents of contracts is still limited, it is undoubtedly the case that a substantial amount of armed and unarmed security work in Iraq is being conducted, or produced, by private companies. In the analysis of security privatisation in Iraq, it was initially argued that two rough patterns of privatisation can be distinguished. In the first pattern, security services are being produced by private companies but funded by state institutions in the US or the UK, whereas

in the second pattern, the services are produced by PSCs for other private companies and funded directly or indirectly through state funds. Upon closer inspection, however, these patterns were found to be much less clear-cut than they first appeared. In reality, generalisations of this kind proved difficult because of the intermingling of public and private in relation to the production, financing as well as the regulation of services. This situation makes it more difficult in many circumstances to clearly differentiate between public and private actors, in turn signalling potential problems of assigning responsibility and to maintain oversight and control.

Also, it has been shown how in the case of Iraq, PSCs are contracted to carry out tasks and activities normally connected to the military. Again, the lack of a clear division of labour between public and private actors has become evident on a number of occasions – the abovementioned incidents in Najaf and al Kut in 2004 leap to mind – when PSCs have ended up performing duties normally associated with the responsibilities of the military forces on the ground. Yet as insistently argued on several instances in this project, PSCs are not the military. They are private companies, which means that they necessarily operate to some extent outside the conventional means of state and or military command and control. In relation to the production of security and protection, privatisation signals a change in the creation and delivery of these services, making normal or established modes of oversight and control difficult to apply. Hence, the mixing of publicly and privately produced security services creates a complicated security/conflict environment where it frequently becomes difficult to tell public and private (or military and civilian) actors and structures apart. Besides increasing the number of actors on the ground, this blurring of lines also makes it difficult in many situations for contracting agencies and democratic institutions to exercise oversight, to carry out investigations and to assign responsibility.

To complicate the situation even more, the intricate maze of contracts, sub-contracts and sub-sub-contracts that characterises the reconstruction effort in Iraq means that linkages between state institutions and private security companies are often hard to make out. In relation to the financing of security services, it was pointed out that because the links between those ultimately financing security services (in this case the state) and those producing it are often indirect, the possibilities of using financial sticks and carrots to shape or circumscribe the behaviour of security contractors are limited. Instead, this becomes the job of the private company (itself a prime or subcontractor) that holds the contract with the PSC in question. It is not clear that they have the capacity or indeed the willingness to do so. Hence, just as in the case of production, the financing of security services in Iraq displays an intermingling of public and private. The issue of financing is further obfuscated by the apparent shortage of comprehensive data among (primarily US) state agencies on the costs associated with security contracts, particularly during the early period of the Iraq conflict. However,

after the Nisour Square incident in September 2007, US agencies stepped up the effort to investigate and publish direct and indirect costs for private security considerably. In sum, this investigation shows that there are causes for concern beyond the important (and still largely unresolved) issues of whether PSCs are cheaper or more cost-effective than, say, the military.

Finally, it has been shown that although regulation does exist on several levels and has in fact increased over time, enforcement and oversight mechanisms have clearly been lagging behind. In the early phase of the Iraq conflict, basic regulation of PSC activities was provided by the Coalition Provisional Authority (CPA). In the US, efforts have been made to improve regulation and the possibility prosecuting security contractors who commit crimes abroad. However, including PSCs under existing legislation such as the UCMJ and the MEJA is a complex matter since these instruments were not originally designed to deal with security contractors. In hindsight, the actual use of PSCs has evidently preceded the development of functional regulatory and enforcement mechanisms, even if it is also the case that the process of improving regulation has accelerated recently, especially following the Nisour Square incident in 2007. In the case of the UK, no comprehensive regulation dealing particularly with PSCs working abroad has been developed in the period under investigation (i.e. until the end of 2007). Partly as a result of government inactivity in the US and the UK, individual PSCs and business associations such as the BAPSC, the IPOA and the PSCAI have developed business codes of conduct and ethical guidelines to fill what may be considered a "regulation void". This "privatisation" of regulation, while undoubtedly better than no regulation at all, is problematic, particularly since the companies and their associations (of which not all PSCs are members) lack the capacity to carry out independent investigations and because business associations are dependent on their members' financial support for their survival. As in the case of production and financing, the area of regulation has been found to be a complicated combination of public and private structures and responsibilities, adding to the difficulty of working out what rules and regulations that do apply in different situations and who is ultimately responsible for enforcing them.

Taken together, the finding that all three categories of privatisation display a mixing of public and private actors and structures points to changes and challenge in the ways in which states can and do exercise control over the instruments and use of force in the case of Iraq. This situation also points to the difficulty of making clear where the state and its authority ends and where the private sphere begins. The difficulties of drawing clear lines between public and private spheres is also a result of changes in the patterns of production, financing and regulation over time, something which makes it difficult to make general statements about security privatisation in the case of Iraq (or indeed about security privatisation in general). Again, the lines between public and private (or state and non-state, or civilian and military) have never been as distinct as in the theoretical world and as

clearly demonstrated in the course of this investigation, security privatisation in the case of Iraq is no exception in this regard. Having thus made the transition from the theoretical and historical discussion of state-violence relationships to the empirical reality of security privatisation in Iraq, the final part of the thesis turned to the task of linking the privatisation of security to the question of state control of force.

## 9.3. Question 3: Security Privatisation and State Control of Force

Drawing on the insights provided by the investigation of security privatisation in Iraq and focusing three different aspects of state control of force, the third question to be addressed was:

What changes and challenges to state control of force can be identified in the process of security privatisation?

Developing the theoretical framework, it was pointed out that from the perspective of civil-military relations, a central concern is the "balance of the soldier and the state" and thus how to place the military under (democratic) state control. Drawing on Avant's reading of the problem of state control through the lens of pioneering works within the civil-military relations literature, it was argued that one fruitful way of probing this question in the case of Iraq would be to structure the analysis around the functional, political and social dimensions of state control. Discussing these dimensions, it was clear that security privatisation could be expected to change and challenge state control of force in quite a number of ways – not least because of the several and significant differences between PSCs and the institution of the military. Again, while they are often staffed by former military professionals and often perform functions of a military character, PSCs are private companies working under business contracts with state and non-state clients. In this context, the privatisation of security is a process whereby private companies become an additional part in the relationship between the state and the instruments and use of force. Shifts away from state control are problematic, for instance in relation to the ideal of democratic control over the instruments and use of force. At the same time, such shifts are in line with claims about the varying degrees of control that have characterised state-violence relationships historically, as well as the durable nature of non-state violence and protection.

Turning to the analysis of the case of Iraq, it is reasonable to claim that security privatisation was initially pursued as viable options by some state agencies in the UK and even more so by US counterparts, but seemingly without much consideration as to the extensive undertaking of ensuring conventional levels of oversight and control. This in turn suggests that functional (economic) concerns were prioritised over issues of political and social control. However, expectations of increased

effectiveness and flexibility (and thus functionality) on part of US and UK state agencies have not always been realised. Again, while the lack of comprehensive data makes it very difficult to generalise, it is clearly the case that the absence of organised and structured working relationships and chains of command between PSCs and the military (i.e. PSC-military relations) has played an important part in creating security problems and friction on the ground. Related problems of coordination, communication and cooperation have limited the possibilities of making functional gains and low levels of control and oversight have sometimes meant that activities of PSCs have run counter to the stated mission of these states. In spite of such problems, state agencies – particularly in the US – have grown increasingly dependent on PSCs for their operations in Iraq. To address perceived problems, several structures and oversight mechanisms (e.g. the ROC system or the Armed Contractor Oversight Division) have been created and appear to have been at least partially successful. However, increasing oversight is costly, meaning that the relative functional gains of security privatisation are likely to have diminished as a result of efforts to increase state control. The question, of course, is if and when rising costs for oversight and control reaches a level that renders privatisation undesirable in the eyes of states and contracting agencies.

When it comes to the issue of political control, it is evident that security privatisation in Iraq has to some extent shifted decisions and decision-making authority related to the organisation of the use of force away from the state. This was clearly demonstrated by the problems resulting from privatising the screening and selection of personnel to private companies. Again, the massive increase in the demand for private security services in the early period of the conflict offers part of the explanation to these problems. The result is that security privatisation in Iraq has made it more difficult for the US and the UK to keep track of who is working for them (directly or under subcontracts) and, more importantly, who is ultimately authorised to use violence on their behalf. In addition, the behaviour of PSCs has sometimes indicated a poor integration with professional standards and values. When PSC behaviour is seen as being in conflict with more or less established norms or rules, this will likely create problems for contracting agencies regardless of whether they or the companies promote and embrace these values or not. In sum, contracting with private companies to provide security and military services may create functional gains for the state (e.g. by providing swift access to services that the state is unable to produce) while at the same time leading to unanticipated and (perhaps) unwanted changes and challenges to the social and political control of force. Admittedly, this situation makes it difficult to draw general conclusions about the impact of security privatisation on state control of force, but it does show the necessity of approaching this phenomenon with a multifaceted view of control.

Indeed, a central conclusion is that in the case of Iraq, and most likely in other cases, the privatisation of security impacts to some extent and in different directions on all three dimensions of state control. This is consistent with Avant's finding that there appears to be no simple correspondence between the privatisation of security and increasing or decreasing state control of force. Moreover, all three dimensions of control are interlinked so that gains in one dimension (e.g. functional control) may bring about changes and challenges in another (e.g. social control). This, however, is not necessarily the result of conscious trade-offs alone. On the contrary, in the case of Iraq, many perceived problems related to state control of force appear to have been unanticipated and have often been dealt with reactively and particularly in the wake of much-publicised and politically embarrassing incidents involving PSCs or their employees. On the other hand, it also appears as if there have been instances in the case of Iraq where increased functionality has been the overriding concern and where states have been less interested in ensuring a high level of political and social control. Such a strategy may be interpreted as "an expansion of the state's capacity to act through private agents" and as opening up for foreign policy by proxy (Whyte 2003: 599). While this may be desirable from a functional perspective, it also clear that decreasing oversight and problems of political and social control create rather serious challenges to the democratic control of force.

In sum, addressing the question of how the privatisation of security changes and challenges state control of force in the case of Iraq does not yield any straight or simple answers. However, from a civil-military point of view, it is undoubtedly the case that the introduction of an additional and commercial component – and hence the creation of civil-PSC and PSC-military relations – complicates issues of control and oversight. Over time and frequently as a result of demands following incidents such as the one in Nisour Square in 2007, several structures and systems have been put in place to address problems of poor oversight and information about PSC operations, as well as problems of communication, coordination and cooperation between military forces and PSCs on the ground. That these structures have been put in place, particularly by the US, suggests that although states have found problems with their use of PSCs, the practice was not abandoned but instead become increasingly more established. However, my investigation of Iraq also pointed out that the US in particular has incurred substantial costs by creating expensive systems of oversight and control, something which complicates the question of what gains are actually made through privatisation and to what extent consolidated states such as the US or the UK are able and willing to create appropriate and working systems of oversight and control. While the extent of security privatisation we have seen in Iraq is perhaps unlikely to be repeated, the reliance on PSCs by states, private companies and organisations involved various conflict and post-conflict environments seems equally unlikely to abate anytime soon.

#### 9.4 Discussion

The case of Iraq stands as a good and yet in many ways exceptional example of the ways in which the use of private companies to provide military- and security-related services brings about changes and problems related to different aspects of state control of force. To use Tilly's terminology, we could say that the concentration and accumulation of coercive means that was such an important part of state building and consolidation processes is characterised in the post-Cold War period partially by a diffusion and redistribution of these means (and power over such means) into the hands of private enterprises. In this context, a key question for the future is what the use of PSCs by states and organisations will look like – that is, what the companies will be asked to do – and to what extent contracting agencies are able and, indeed, willing to bear the costs associated with comprehensive and institutionalised mechanisms for oversight and control.

More specifically, the issue is whether and how states and organisations will try to strike a balance between increased functionality and the levels of political and social control. If narrow functional concerns will carry the day – as seems to have been the case in the early period of the Iraq conflict – then serious problems of political and social control of force are likely to ensue. In relation to the question of state change, security privatisation appears to point in the direction of increasing private production and financing. This would mean that states such as the US retain (or strengthen) their position as regulator of security-related activities. Certainly, this means that in a way, we might still speak about the sovereign state as the "sole source of the 'right' to use violence", but it hardly amounts to a substantial monopoly (Weber 2004 [1919]: 34). Though the issue has not been addressed in this study, it would be interesting to study more in detail the political and ideological debate and discourse that surrounds security privatisation to get a clearer view of how ideas and arguments for and against privatisation policies are explained and justified in different contexts.

Recalling once more the division of privatisation into the production, financing and regulation of services and activities, the analysis of the case of Iraq has shown that one distinguishing feature of security privatisation is that it blurs public-private distinctions. We could thus say that the use of PSCs creates new mixes of public and private in relation to security services and violence-using institutions. Hence, when security- and military-related tasks are outsourced to private companies as in the case of Iraq, this changes to some extent the set-up of the instruments of force and protection and redistributes the power over their use. Such a debureaucratisation (or "de-statization") of violence and security means that to some extent, security and protection have (once again) become market commodities to be bought and sold on a global market. In the process and as indicated in the case of Iraq, violence- and security-related activities are partly de-linked from political processes and social norms and as a consequence, public control changes.

In Iraq, the use of PSCs by the US and the UK has introduced additional, commercial elements not only into civil-military relations but also more generally into the production, financing and regulation of military- and security-related activities. While it is difficult on a general level to argue that this *inevitably* leads to problems of state control, the case of Iraq does indicate several causes for concern. For instance, it has been shown how unclear divisions of labour between state and non-state actors, badly structured PSC-military relations and the lack of comprehensive and functioning control and oversight mechanisms have repeatedly resulted in very serious problems such as increased violence or insecurity. Certainly, the single case of Iraq cannot be said to be representative of the phenomenon as a whole; security privatisation is bound to look very different in different contexts, and the same goes for its impact on individual states' control over the instruments and use of force. In this regard, this study is clearly limited by its focus on the use of PSCs by two powerful and consolidated "Western" democracies in a single case of armed conflict over a short period of time. Still, the case of Iraq does motivate a few general observations.

For instance, it appears reasonable to assume that states such as the US and the UK, as well as transnational corporations, international organisations and NGOs operating in around conflict or post-conflict areas will continue to rely on PSCs to provide certain security services to protect assets and personnel. In relation to ideas about the changing role and function of the state vis-à-vis security and war and judging from the case of Iraq, states appear increasingly willing to rely on private companies to produce and deliver services conventionally thought of as the responsibility of state institutions. In the context of armed conflicts, this indicates an increasing number of actors and stakeholders, potentially making conflict and post-conflict environments more complex. While this study has pointed to ways in which private companies are used as producers of security services or, in other words, "technical experts", it has not addressed specifically the role of PSCs as "security experts" or experts on how threats to security are identified and addressed. Even so, it is quite clear that more research is needed to understand the impact and logic of civil-PSC and PSC-military constellations, not only in relation to issues of state control and civil-military relations, but also in relation to processes through which security decisions and policies are formulated and understood (Leander 2007).

Also, the case of Iraq has shown that in terms of regulation of PSCs, efforts have been made to improve regulatory mechanisms and to clarify issues of jurisdiction. In spite of these efforts to increase state control, several unclarieties surrounding the legal status and accountability of PSCs remain. Yet regulation on the level of the contracting state is not enough. Using PSCs in zones of armed conflict also raises the question about host country jurisdiction and the applicability of international law. These questions have largely been left out of the present study, but the case of Iraq nonetheless suggests that the issue cannot be considered

as merely a matter of new legislation being drafted by individual states, regional organisations or international bodies. Regulation is insufficient on its own and need to be coupled with oversight mechanisms and viable and standardised procedures for holding actors responsible. In any case of armed conflict, states or organisations wishing to maintain control over actors on the ground (e.g. the military) face significant problems of oversight. The privatisation of security is no exception; in fact, the case of Iraq clearly shows how the lack of control of PSC activities can cause serious problems, but also that the construction of mechanisms to remedy these problems is both complex and costly. Even so, the US in particular has moved to improve both regulation and oversight. If this development says anything about how other states and organisations will act, it is that the practice of using PSCs is gradually becoming more institutionalised.

This analysis has clearly pointed out the difficulties of drawing general conclusions about security privatisation and state control of force. As indicated in the investigation of the Iraq case, it makes a difference if we ask questions about security privatisation and state control in 2003/04 or in 2007. In Iraq, the use of PSCs in the early period of the conflict appears to have been motivated chiefly by a desire to make quick functional gains, apparently without much consideration as to social and political aspects of privatisation. Faced with a large number of functional, political and social problems related to the control and oversight of the companies, as well as the public pressure resulting from PSC involvement in incidents and controversies such as the Abu Ghraib prison scandal and later the Nisour Square shootings, state actors moved to regain control.

Significantly, the use of PSCs as such – even to provide armed services – does not appear to have been fundamentally questioned and there seem to be few signs of state leaderships taking action to abandon the use of PSCs altogether. Instead, the measures taken have largely been designed to increase control and oversight, to decrease the dependence on particular (ill-behaved or overzealous) companies and to generally improve legal accountability of companies and employees. Again, in spite of the problems associated with security privatisation, efforts to increase control over PSCs have not reverted the reliance on these companies but instead increased the level of institutionalisation of the practice. The question, of course, is what impact this development will have on the future of security privatisation in general, and for the use of PSCs in conflict and post-conflict environments in particular. To what extent will the use of PSCs in Iraq by the US and the UK serve as a blueprint (or a discouraging example) for states and organisations in the future? While this study is not in a position to answer this question, it is reasonable to suggest that the use of PSCs in Iraq has the potential to play a decisive role in shaping the ways in which security privatisation is legitimised (or de-legitimised) in the future and how it will be organised by other actors in other environments.

To sum up, the case of Iraq is a representation of an ongoing trend towards privatisation and market oriented solutions to perceived security needs. In this process, relationships between state and their instruments and use of force change, as do the ways in which these instruments are put together and organised. This can fruitfully be understood as a change in the ways in which some sovereign states authorise the use of force and as a potential shift in what forms and providers of protection and force are accepted in the international system. This change, it has been argued, is not unproblematic. As the case of Iraq demonstrates, the use of private companies to provide military- and security-related tasks in the context of armed conflict signals significant although not uniform changes and challenges to state control of force. Moreover, the use of PSCs in Iraq has created complex and shifting combinations of public and private actors and structure, frequently making distinctions publicly or privately produced, financed and regulated activities and services difficult. Even though the impact of Iraq on security privatisation in general is too early assess, this study has pointed to several ways in which the use of PSCs in Iraq can be understood in a larger context of security privatisation where conventional understandings of the role and function of the state vis-àvis the provision of protection and the use and control of force are seriously questioned. In the course of this analysis, it has also become clear that while some important contributions to the knowledge and understanding of the privatisation of security and changes and challenges to state control of force have been made, many issues and questions show a want of further investigation.

#### Avenues for Future Research

It goes without saying that a study focusing mainly on a case where access to reliable data is limited is bound to leave a number of loose ends and stones unturned. In the literature on private security, it has often been argued that more empirical research is needed and that a central problem of doing research on security privatisation is the lack of reliable data. While this study has taken a few small but important steps to increase the amount of available and systematically compiled data on the case of Iraq, more work is clearly needed to remedy the serious shortage of basic information on companies, contracts and costs, to give but a few examples. Here, researchers face problem of access to information. Although many companies are fairly open about their activities, there is a limit to their willingness to share certain pieces of (proprietary) information because it could jeopardise their relationship to (state or non-state) clients and thus affect their competitiveness on the market. However, after the Nisour Square incident, much more information has been made publicly available and this opens up for new analyses of security privatisation in Iraq that can confirm or change what we know now.

Moreover, this project has investigated security privatisation on the ground in Iraq by compiling and analysing a wide range of primary and secondary sources. Yet research into the workings of security privatisation would benefit greatly by generating more data through observation and extended field research – i.e. by actually observing security privatisation on the ground - although it is evident that in some cases (such as Iraq) the situation on the ground makes this kind of research risky. In addition, to be able to draw more general conclusions, efforts to make structured comparisons and multiple-case studies need to be stepped up. Also, research on the privatisation of security has often focused on the "sharp end" of this phenomenon, i.e. the use of PSCs in the context of armed conflict and post-conflict reconstruction. Moreover, and as in the case of this study, the focus is often on those companies that provide armed services such as base security services or close protection teams. While this is undeniably an important area of study, it is equally important that the global nature of the privatisation of security is acknowledged and that different expressions of security privatisation in varying contexts are studied and theorised as part of the same phenomenon (Abrahamsen and Williams 2007). Thus, the privatisation of security that goes on in stable societies in the West need to be theoretically connected and empirically compared to cases such as Iraq. In this context, it would be interesting to study more in detail the organisation of the global market, for instance by looking at ownership structures, mergers and acquisitions or the importance of personal connections between high-ranking people in the companies and political elites. Contrasting and comparing different manifestations of the privatisation of security, research will be better placed to draw conclusions about the phenomenon as a whole, as well as to point to general consequences and to discuss viable options for resolving problems on national, regional and international levels.

Finally, analysing the use of PSCs in the case of Iraq, this study has pointed to the importance of studying the relationships between private security companies and other actors on the ground to gain insight into the workings of security privatisation on the ground. The section on functional control referred to issues of cooperation, communication and coordination, but also pointed to the linkages between problems in these fields and the ways in which different actors perceive of each other as well as the potential impact of different perceptions or attitudes. Here, it would of course be highly valuable to study more in depth (and quantitatively) the attitudes of PSC personnel towards the military (or NGOs) and vice versa, as well as the ways in which the civilian population understand and perceive of private security companies. In conclusion, this study has ended up with some answers regarding the privatisation of security and state control of force, but also with a considerable number of unanswered questions. These questions underline the fact that research on the privatisation of security is still in its early stages and hints at ways in which research in this field could move forward.

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