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FACULTY OF SOCIAL SCIENCES

WHY BLACKWATER?

The Motives of the USA to Deploy Private
Military Companies



Master thesis "International Public Management and Policy", M.Sc.

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Rotterdam, 01.08.2013

Wordcount: 31.970

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Abbreviations

| | |
|--------------|--|
| ACA..... | Arms Control Act |
| AEI..... | American Enterprise Institute |
| ATS..... | Alien Tort Statute |
| CIA..... | Central Intelligence Agency |
| CNTPO..... | Counter Narco-Terrorism Program Office |
| CPA..... | Coalition Provisional Authority |
| CPT..... | Causal-Process Tracing |
| DCAF..... | Geneva Centre for the Democratic Control of Armed Forces |
| DoD..... | US Department of Defense |
| DS..... | US Department of State |
| FBI..... | Federal Bureau of Investigation |
| GAO..... | Government Accountability Office |
| GCS..... | Global Civil Society |
| ICRC..... | International Committee of the Red Cross |
| IR..... | International Relations |
| ISAF..... | International Security Assistance Force |
| ISOA..... | International Stability Operations Association |
| ITAR..... | International Traffic in Arms Regulations |
| MEJA..... | Military Extraterritorial Jurisdiction Act |
| MIC..... | Military-Industrial Complex |
| NATO..... | North Atlantic Treaty Organisation |
| OEF..... | Operation Enduring Freedom |
| OIF..... | Operation Iraqi Freedom |
| PMC(s)..... | Private Military Company(-ies) |
| PMF(s)..... | Private Military Firm(s) |
| PMSC(s)..... | Private Military and Security Company(-ies) |
| PNAC..... | Project for a New American Century |
| PSC(s)..... | Private Security Company(-ies) |
| PSS..... | Protective Security Specialists |
| R&D..... | Research and Development |
| SOFA..... | Status of Force Agreement |
| SOSS..... | Society of Sovereign States |

| | |
|---------------|--|
| UCMJ..... | Uniform Code of Military Justice |
| UN / UNO..... | United Nations / United Nations Organisation |
| US / USA..... | United States / United States of America |
| US CENTCOM. | United States Central Command |
| WMDs..... | Weapons of Mass Destruction |
| WoT..... | War on Terror |
| WPPS | Worldwide Personal Protective Services |

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<http://www.blackwaterusa.com/skin/frontend/ultimo/blackwaterusa/images/logo.png> , retrieved 16/6/2013

Abstract

Nowadays, states increasingly hire Private Military Companies to assume security services and military tasks. However, as there is no distinct legal framework to govern such companies, their deployment undermines the state monopoly on force which requires the ability of states to control force executed in their names. Consequently, the deployment of such companies also undermines the sovereignty of states which is currently understood as the responsibility of states to protect and provide security for their people; thus it presupposes the state monopoly on force. The following study approaches therefore the question why states nevertheless deploy Private Military Companies. The case examples studied are the deployment of the Private Military Company Blackwater, a highly controversial company, in the course of the War on Terror to Afghanistan and Iraq by the USA.

The theoretical framework is based on notions of security governance, intersubjectivity of norms and interest representation, and by using the method of observation and drawing causal inferences the study concludes that Blackwater has been deployed in the belief in the cost-efficiency of outsourcing military tasks. Additionally, the US departments and the CIA were in compelling need of special expertise and manpower which could be provided by Blackwater, and tried to avoid political and public debates by deploying Private Military Companies instead of own troops. Moreover, Blackwater successfully enforced its interests with the US administration which was supported by personal contacts of the CEO of Blackwater. Eventually, the North-American identity entails the conviction that the sovereignty of the USA may never be compromised and the North-Americans do not perceive it as being undermined by the deployment of Private Military Companies.

The study shows that (security) governance is indeed induced, among others, by the increasing need of governments to draw on resources of private actors and that the permeability of individual interests in governance approaches is neglected. Hence, an important inference is a need of further theoretical research regarding the current disaggregated international architecture with a special focus on the enforcement of particular interests. Furthermore, the study suggests that sovereignty is a subjective concept and a universal existence of one conception of sovereignty is to be questioned. In addition, the study implies that the ability to persist in a war might be increasingly dependent on financial power; it also shows the in-transparency of US government contracting as well as the necessity to establish legal frameworks which govern Private Military Companies.

1. Introduction

On 11/9/2001, four aeroplanes headed towards their destinations in the USA. However, instead of reaching their destinations, they flew into the World Trade Center and the Pentagon. One crashed in the countryside. On the same day, the Central Intelligence Agency (CIA) detected the terrorist network al-Qaeda as the initiator of the attacks and a few days later, US President George W. Bush launched the so-called War on Terror (WoT). Subsequently, military operations which were intended to break up al-Qaeda and to disempower its supporters were launched by the US. The main theatres of the WoT have been Afghanistan, where the headquarters of al-Qaeda and its leader Osama bin Laden were located, and Iraq as its administration, mainly its President Saddam Hussein, were assumed to have supported the attacks and to possess Weapons of Mass Destruction (WMDs), which were perceived as potential threats to the USA and its allies. Additionally, the CIA launched special forces, team “Jawbreaker”, to conduct secret operations in Afghanistan to support the military operations and to kill terrorists purposefully. However, these operations did not only include US troops and other employees of the US military or the CIA, but also private military actors who supported the operations and provided security services for US personnel. These services exceeded traditional personal protection tasks as the private military actors were supposed to secure whole areas and not only provide bodyguard service tasks. Private military actors are no new phenomenon: mercenaries have already fought in the Italian Renaissance and during post-World War II period of decolonisation in Africa. They were defined by the First Additional Protocol to the Geneva Convention (1977) as an entity or person that, among others, “is specially recruited locally or abroad in order to fight in an armed conflict” and “is not a member of the armed forces of a Party to the conflict” (ICRC14/5/2012). But as today’s private military actors have a distinct corporate character and as they are normally associated with one party of the conflict in which they fight, they are distinguished from traditional mercenaries. Additionally, the law applicable to mercenaries is not applicable to today’s private military actors and there is no distinct legal framework in place to govern these actors. Consequently, they are limitedly accountable and states that deploy such actors are hardly able to control the force they delegate to these actors. However, the norm of the monopoly on force is a prerequisite for the current understanding of sovereignty which entails that the sovereignty of states is dependent on their ability to protect and provide (security) for their people – without being able to control force, they cannot provide for the protection of their people against force. The deployment of private military actors is therefore considered to undermine the sovereignty of states, which raises the question as to why states, nevertheless, use these actors.

Among the Private Military Companies deployed by the US in the course of the WoT is the company called Blackwater. It has been deployed since the beginning and has become notorious for the incidents in which it has been involved; i.e. a shooting at Nisour Square in Baghdad and an ambush in Fallujah. These incidents make the outlined paradox as well as the repeated deployment of Blackwater even more explosive. So, the research question of this study asks why Blackwater has been deployed by the USA to Iraq and Afghanistan although the deployment of Private Military Companies undermines the sovereignty of states. In order to answer this question and entailed sub-questions, the study will first provide an overview of the relevant literature and important background information. This section will include the development from Westphalian sovereignty towards the current understanding of sovereignty as responsibility. Moreover, the different definitions of private military actors will be outlined and the definition used in the study determined. Additionally, the assumption that private military actors undermine the sovereignty of states is further explained. Afterwards, a preliminary overview of the empirical background regarding the US and their relation to Private Military Companies and initial empirical information about Private Military Companies in Afghanistan and Iraq is presented. In this context the research questions will be formulated. Then the design and methodology used in the empirical analysis will be outlined. The design will be Causal-Process Tracing, which entails deciphering the causal conditions which have led to a certain outcome. The methodology will be observational. Having outlined reliability and the validity of the research, the theoretical framework of this study will be elaborated. It will be geared to the approach of security

governance, but as the study pivots around a norm and includes the power of domestic actors in the US, the intersubjectivity of norms and approaches of interest representation will be added. After the operationalization has been explained, the theoretical and practical relevance of the study will be shown. This can only happen at this point as it draws on the aspects elaborated before. Subsequently, the empirical analysis will be conducted. First, the storyline of the deployment of Blackwater will be presented followed by the central pieces of evidence as to why Blackwater has been deployed. It is important to point out that the study will focus on the US as there is hardly any information available regarding Afghanistan and Iraq. The findings and their correspondence with the hypotheses will then be discussed and answers to the research questions formulated. The conclusion will summarise the study and its main arguments, draw inferences and will present potential starting points for further research.

2. Literature Overview and Background Information

This chapter contains both background information about the underlying concepts of the research topic and an overview of the state of its research. Additionally, the basic assumptions are outlined. Hence, first, the development and current perceptions of the concept of sovereignty are presented. Afterwards, the characterisation and discussion of private military actors are outlined.

2.1. Sovereignty

The first notion of sovereignty has emerged in the context of the Peace of Westphalia which ended the Thirty Years' War in 1648. The agreement made said that states are defined physical territories "within which domestic political authorities are the sole arbiters of legitimate behaviour" (Slaughter 2004(b): 284), which entails "the right to be left alone" and "the right to be recognized as an autonomous agent in the international system" (ibid.). Consequently, sovereignty has been divided into external and internal sovereignty. Internal sovereignty is understood as "the ultimate or highest authority within a state" (Lake 2003: 305) and external sovereignty is seen as "the recognition by other similarly recognized states that this entity is 'one of them'" (ibid.). While these classifications are widely accepted, the definition of external sovereignty is faulty as sovereignty is only characterized as being constituted by other (sovereign) states but not by any substance or meaning – states are considered as sovereign but the definition does not say what it means to be sovereign. However, there have been other classifications of sovereignty. Krasner lists four versions. He calls what has been defined as external sovereignty "international legal sovereignty" (Krasner 2001: 233), what has been defined as internal sovereignty "domestic sovereignty" (ibid: 231) and lists Westphalian sovereignty as single category which entails that external sources of authority should be excluded from every state (ibid: 232). While the "international legal sovereignty" bears the same faultiness as the "external sovereignty", Krasner adds "independence sovereignty" which he defines as the "ability of states to control movements across their borders" (ibid: 231). Similarly, Thomson states that sovereignty consists of the recognition "by other states or rulers" (Thomson 1995: 219), of the state being the "bureaucratic apparatus" (ibid: 221), of the authority of a state "to define [...] the political being that is subject to state coercion" (ibid: 222), which is an institution, of coercion as "exercise of [the] authority" (ibid: 225) and of the territoriality of a state. Additionally, Thomson mentions the debate in IR theories about sovereignty. One core issue of this debate entails the distinction of sovereignty as being a static, given concept (Barkin/Cronin 1994: 108) or a constructed, social concept (Lake 2003: 305). The former is advocated by two main international relations (IR) theories, (neo-) realism and institutionalism. For both "sovereignty is a necessary constant" (Barkin/Cronin 1994: 108) and states can only exist as long as they are sovereign. Additionally, realists "argue that sovereignty is based [...] on the ability of a political group to establish a domestic control over its territory" (ibid: 110). For institutionalists change in the perception of sovereignty is not impossible "but it does not occur regularly and in between there are periods of stasis or stability" (Krasner 1998: 74). Similarly, the IR theory constructivism says that sovereignty is the "institutionalization of public authority within mutually exclusive jurisdictional domains" (Ruggie 1998: 147). Moreover, constructivists, i.e. Wendt, advocate the notion of a socially constituted sovereignty; that is to say as an intersubjective construct and not a brute fact and as a feature of the role of a state. As Wendt put it:

Sovereignty is an institution, and so it exists only in virtue of certain intersubjective understandings and expectations; there is no sovereignty without an other. These understandings and expectations [...] constitute a particular kind of state - the 'sovereign' state.
(Wendt 1992: 412)

The advocates of (neo-) liberalism also argue that sovereignty is not a static, absolute concept. They say that "states do not automatically maximize fixed, homogenous conceptions of security, sovereignty or welfare per se" but "they pursue particular interpretations and combinations of security, welfare and sovereignty preferred by powerful domestic groups enfranchised by representative institutions and practices" (Moravcsik 1997: 519, 520).

Similarly, Barkin and Cronin find that there is no absolute understanding of sovereignty. They argue that “the rules of sovereignty [...] are [...] subject to changing interpretations” (Barkin/Cronin 1994: 108) and that there have been periods in which “state sovereignty”, “the link between a sovereign authority and a defined set of [...] institutions” (ibid: 112), dominated, and other periods in which “national sovereignty”, “the link between a sovereign authority and a defined population” (ibid.), dominated. According to them, there has recently been a turn towards the focus on “national sovereignty” (ibid: 114). This turn can also be seen in Etzioni’s argumentation. He states that after the humanitarian crises of the 1990s, new attention was brought to a new understanding of sovereignty. He draws on the work of Deng who challenged the principle of non-intervention, stemming from the Peace of Westphalia, and established the notion of sovereignty as the responsibility “to protect the people in a given territory” (Etzioni 2006: 71). “This new formulation of responsibility [renders] sovereignty conditional [and] opens the door to treating nations [...] as members of an international community who are expected to adhere to that community’s [...] norms” (ibid: 72). Hence, the international community has to see to the adherence of these norms.

Drawing on this perception, Slaughter states that the Westphalian sovereignty and its principle of non-intervention are no longer applicable to today’s international system. She refers to Chayes’ and Handler Chayes’ perception of “new sovereignty” as the capacity to participate in international institutions, which “is conditioned in the sense that it mandates acceptance of certain basic responsibilities required of all governments toward their own people” (Slaughter 2004(b): 285). This means that membership in international institutions entails the duty to assume responsibilities. Consequently, Slaughter finds that “there is a [...] re-characterization [...] from sovereignty as control to sovereignty as responsibility” (ibid.). Therefore she concludes by saying that sovereignty means the duty and right of a state “to protect and provide for its people” (ibid: 327). Additionally, it is important to point out that the protection of people and their provision is not necessarily bound to a territory – due to refugees, or terrorists, a threat to a people can also stem from somewhere outside the state territory and “states can no longer assume that if they refrain from interfering in the affairs of other states they will remain free from interference themselves” (ibid: 284). Hence, threats need to be addressed where they are rooted.

The understanding of sovereignty as responsibility is the current state of art; it reflects the focus on people and with its feature of preventing hardship it fits well into the greater framework of this study: international security. Therefore, it will be used in this study¹. It is furthermore necessary to identify the connection of the sovereignty understood as the responsibility to protect and provide security for the people of a state and the monopoly of force. In 1919, Max Weber said that a state is defined by holding the monopoly on the legitimate use of force and that other institutions or individuals are allowed to use force when it is ascribed by the state and executed within its legal conditions. Thus, a state can delegate the use of force as long as the state is able to control it. While Weber does not define the ends of a state, he argues that the state has to use force as a means to maintain its order (Weber 1919:1 et seq.). He understands “order” as any social behaviour which is subordinated to certain maxims (Weber 1922: 33). Following the current norm that states are responsible for protecting their people and providing for them, the inference is that states have to use their force to provide for the realisation of this responsibility (Slaughter 2004 (b): 325). Additionally, if a state wants to prevent its people from suffering from (physical) force, the state has to control force. Similarly, Tilly argues that only the monopolizing of violence on the part of the government makes its claim to provide protection credible - security is “a presupposition of sovereign statehood” (Tilly 1985: 172, Jackson 2007: 298). At this point the Hobbesian character of this notion of sovereignty becomes clear: in order to protect their people and to provide security, states have to “be equipped with the [...] ‘the right to arm’ [as] the safety of the people is the supreme law” (Hobbes 1993 in

¹ While they are mutually dependent, this term does not address the UN norm of the Responsibility to Protect but means the understanding of sovereignty as responsibility to protect the people of a state and to provide (security) for them.

Jackson 2007: 299). In conclusion, to assume sovereignty in the sense of the responsibility to protect and provide security for a people is not feasible without the state holding the monopoly on force.

The underlying theme of this study is the confrontation of sovereignty with privately executed violence in the form of private military actors. The use of such “soldiers-for-hire” (Zarate 1998: 79) is seen as a challenge to traditional state-related concepts such as sovereignty. Singer, for example argues, that “when military powers are no longer exclusively sovereign states but include ‘[...] players caught in a network of trans-national transactions’, familiar concepts such as the ‘balance of power’ lose some of their analytical muscle” (Singer 2001/2002: 208, citing Guéhenno 2000). Similarly, Nagan and Hammer state that the “fundamental problem with [Private Military Companies] is that they are non-state actors and not subject to the accountability akin to that assumed by, or imposed on, states” (Nagan/Hammer 2008: 445 et seq.). Maogoto argues that state sovereignty becomes fragmented when the ability of states to control the forces that work for them is diffused by the usage of private military actors (Maogoto 2006: 149). Additionally, a Working Group on the Use of Mercenaries² convened by the UN Economic and Social Council (ESCOR) expressed its concern that soldiers-for-hire undermine the sovereignty of states and in 2010, José Luis Gómez del Prado, former member of the Working Group, wrote that Private Military Companies are “a means of violating the sovereignty of States” (UN Economic and Social Council 2006: para. 27, Gomez del Prado 7/11/2010). Regarding the responsibility of states, the Dutch Advisory Council on International Affairs states that it clearly includes the conduct and the misconduct of private military actors when the actor “(a) acts as an organ of the state; (b) is authorised to exercise elements of state authority [and] (c) is acting under the instructions or control of the state” (Dutch Advisory Council on International Affairs 2007). Therefore, if a Private Military Company misbehaves, it affects the responsibility of the employing state. In which way this can happen and how the state monopoly on force is challenged by the use of private military actors is outlined in the following section.

² This working group approached questions about mercenaries as well as “Private Military Companies”. The two actor definitions were later set apart from each other, but the group kept its name.

2.2. *Private Military Companies*

While there have almost always been private entities fighting for money, today's soldiers-for-hire are said to be a distinct development of the post-Cold War era and differ from traditional mercenaries which have for instance fought during the Italian Renaissance or in Africa during the post-World War II period of decolonization.

Mercenaries have been defined by the First Additional Protocol of the Geneva Convention (1977) as an entity or person that:

- (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 force.
- (ICRC 14/5/2012).

The definition of the UN Convention on Mercenaries (1989) is identical besides the fact that it excludes article (b). These documents not only define mercenaries but are dominant parts of the body of international law that prohibits them. However, the definition of mercenaries is no longer seen as applicable to today's private military actors; prominent examples include Executive Outcomes³, Sandline International⁴, DynCorp and Academi (formerly Blackwater). There are terminological and legal distinctions between the definitions. Regarding the former, researchers use different terms and find different distinguishing features between today's private military actors and mercenaries. Singer uses a broad definition and says that Private Military Firms (PMFs) are "profit-driven organisations that trade in professional services intricately linked to warfare" (Singer 2001/2002: 186). He also argues that the main difference between mercenaries and PMFs is the corporate character of the latter (Singer 2001/ 2002: 191). This is buttressed by Shearer (Shearer 1998: 69). Singer also lists the openness of PMFs to the market and their "much wider array of services" as their distinguishing features in comparison to mercenaries (Singer 2001/ 2002: 192). Kinsey differentiates between Private Combat Companies, Private Military Companies, Proxy Military Companies, Private Security Companies, Commercial Security Companies and Freelance Operators (Kinsey 2006: 13 et seq.). According to Kinsey, Private Military Companies and Private Security Companies are, for example, to be distinguished by "the object to be secured and the means by which the object is secured" (ibid: 21). That is to say while Private Military Companies use lethal force "to secure a peace" in a war-zone or "undertake certain military activities, notably to do with peacekeeping operations" (ibid: 23), Private Security Companies have assumed traditional public services such as "managing prisons [and] prison transportation" and hardly use lethal force (ibid: 28).

The legal definition of today's private military actors, their distinction to mercenaries and entailed issues have been approached within the context of the Mercenary Report⁵ (1997) which revealed "tensions and problems associated with applying the law of mercenaries" to Private Military Companies (Zarate 1998: 177). Reasons for the legal distinction refer to the legal definition of mercenaries, as found in the First Additional Protocol of the Geneva Convention and the UN Convention of Mercenaries. This definition is inapplicable to modern private military actors as they do not always fight in a conflict, as they may work together with the forces of the country which deploys

³ Ceased operations in December 1998.

⁴ Ceased operations in April 2004.

⁵ The report was submitted to UN ESCOR following the Commission Decision 1996/113 and Commission Resolution 1995/5.

them and as they are sometimes contracted by states uninvolved in the conflict in which they fight (ibid: 124). Next to that, only combatants are allowed to participate in hostilities, but as modern private military actors are neither combatants nor non-combatants according to the Geneva Convention, they are in a legal grey area (Cameron 2006: 591). Regarding this grey area, Singer lists three distinct problems with national regulations of private military actors. First, as globally oriented companies they can easily change their location and corporate structure; second, the enforcement of potential national regulation is very difficult as this national regulation would have to be enforced extraterritorially and in common with foreign prosecutors and laws, and third, neither most national nor international law has a fixed category for private military actors (Singer 2004: 535 et seq.).

Regarding international law, Krahmman writes that the discourse surrounding the First Additional Protocol of the Geneva Convention, which had been initiated by the International Committee of the Red Cross (ICRC) when private military actors were deployed in the war in Afghanistan and Iraq, “opened up the way for attributing to these incorporated contractors a new legal status under international law by making them a legitimate party of the conflict” (Krahmann 2011(2012): 345 et seq.). The main topics of this discourse were, according to Krahmman, that the aspect of profit orientation was said to have lost its validity as companies are profit-driven anyway, the claim of the ICRC that the international community had never fully supported the definition of mercenaries, and that the actors were usually part of a state participating in a conflict and also participated in hostilities. Following this, the ICRC published documents which no longer used the term “mercenary” and claimed that mercenaries are individual persons distinct to Private Military Companies which are corporations (ibid: 348 et seq.). The discourse entailed by the UN Convention on Mercenaries has, according to Krahmman, “opened up the possibility of legalising persons and companies selling armed force in conflicts” too (ibid: 362). It shifted the definition of soldiers-for-hire “from a focus on the agents”, negatively perceived mercenaries, “to a focus on specific activities” which were state functions, such as “offensive and defensive military activity”, and thus acceptable (ibid: 360, 363). Special Rapporteur Ballesteros and the Working Group on the Use of Mercenaries, both mandated to monitor the activities of private military actors, played important roles in this discourse. While Ballesteros first stuck to the definition and term of mercenaries, he obviously started to notice a change in the perception of these actors from the mid-1990s onwards and that the use of the mercenary definition did not seem justified anymore. “In his 1998 report, Ballesteros introduced the term private security companies (PSCs)” (ibid: 357). The Working Group on the Use of Mercenaries, established in 2005, introduced the term Private Military and Security Company.

As clear concepts are of academic and legal importance, the term used in this study is Private Military Company (PMC). It draws on the current definition of the Working Group on the Use of Mercenaries and narrows it down to providers of warfare-related services. Besides, the International Stability Operations Association (ISOA), the interest group of the private military industry, also uses the term Private Military Company (Singer 2003: viii). The turn away from the term “mercenary” is might be considered to be part of an international rebranding campaign led by the ISOA with the intention to get rid of the negatively perceived term “mercenary” (Scahill: 406). However, the new term has gained prominence and is used in the discourses in order to find related international legal frameworks. This is why it is used in this study.

The most current approach to bind PMCs by law was initiated by the ICRC and the Swiss government in 2006. They initiated the elaboration of the so-called “Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict” which is supposed to reaffirm “the obligation on states to ensure that [PMCs] operating in armed conflicts comply with international humanitarian and human rights law” (International Committee of the Red Cross/Schweizerische Eidgenossenschaft 17/9/2008). It was signed by 17 states in 2008, among others the USA, Afghanistan and Iraq (ibid.). However, the impact of this code of conduct for PMCs has been contested. Cockayne wrote that “it will take significant leadership from within industry and states to breathe life into the Montreux Document” and Krahmman finds that the document “did not go beyond a reiteration of existing

international and humanitarian rights law and voluntary ‘good practices’ drawn from the codes of conduct of [PMCs] and their industry associations” (Cockayne 2008: 427, Krahnmann 2009:1). Therefore, one can conclude that while there have been efforts to bind PMCs by law, there is still no legal framework by which they can be held sufficiently accountable for their actions.

2.2.1. Use of Force

The lacking legal framework is associated with the undermining of the sovereignty of states by the deployment of PMCs, the basic argument of this study. As elaborated above, sovereignty understood as the responsibility to protect and provide security for a people is necessarily related to the state monopoly on force - when a state cannot control force, its sovereignty is undermined. Weber referred to the monopoly on force within a state territory. But in times of globalisation and international interdependencies the order within a state is no longer solely dependent on the policies of the administration in question but also on external events. Furthermore, the policies of a respective state cannot be restrained by territoriality anymore. Hence, the capacity of states to maintain their public order is no longer dependent on their domestic policies but “states can only govern effectively by actively cooperating with other states” and by accounting for international events (Slaughter 2004 (b): 285). Similarly, Schneckener argues that in the “modern world, the state has to fulfil a dual function” with regard to public order which refers not only to the individual territorial order but also the global order (Schneckener 2007: 18). Wulf states that “Westphalian ideal states monopolising the means of force presupposes a world with sharply drawn borders demarcating distinct, territorial jurisdictions administered in relative isolation from other sovereign actors”. This model does not, according to Wulf, live up to the character of today’s international system wherein “cross-cutting and intersecting grids at the local, state, regional, and global levels have emerged” (Wulf 2007: 21). Hence, due to this international architecture, a public monopoly on the use of force should be applied to all levels of governance, the international, national and sub-national (ibid.). Consequently, the notion that a state can delegate force as long as it is executed within the state’s legal provisions and the entailed accountability of the state for the force executed in the name of the state apply to the international level as well.

2.2.2. The Unaccountability of Private Military Companies

The fact that the state monopoly on force entails the control of force and the fact that there is no distinct legal framework to govern and supervise PMCs, that they are limitedly accountable, leads to the finding that the deployment of PMCs undermines the state monopoly on force. Additionally, as states need to hold the monopoly on the - control of - force in order to be sovereign, deployments of PMCs are considered as undermining the sovereignty of states. This assumption, which will be the basis of the research question, is buttressed by scholars. Schneckener, for instance, states that PMCs challenge the monopoly on force (Schneckener 2007: 10). Similarly, Wulf argues that

Military skills are now offered on a contract basis in the global market [...]. This reverses a centuries-old development of establishing a legitimate state monopoly of violence by disarming citizens [...]. The privatization of violence and security undermines and fundamentally challenges the legitimate monopoly of force.
(Wulf 2007: 19).

Moreover, a report of the Political Affairs Committee of the Council of Europe says that

Since the early 1990s, a rapidly growing market for [PMCs] has taken shape. An entirely new industry has emerged, providing services in the highly sensitive area of internal and external security, which had been exclusively the responsibility of the state. [...] These transformations in an area of sovereignty that until now has been exclusively reserved for the state have created a new mixed pattern [...] throughout the world. [...] the increasing privatisation of the military and security apparatuses undermines the traditional position of a state as the only actor allowed to legitimately and lawfully use force, both internally and externally.

(Council of Europe Political Affairs Committee, Rapporteur Wolfgang Wodarg 22/12/2008).

Many problems which can emerge due to the lack of control can be referred to as principal-agent problems. This means that when a principal transfers the task to an agent, the agent may not implement it the way the principal requires it (Hix/Høyland 2011: 24). One prominent principal-agent problem is that agents may have different incentives or aims than principals. The incentive and aim of PMCs, their profit, does not necessarily correspond with the goals of an employing government or with the good, security in the wider sense, which is to be provided; PMCs may overcharge their employers or quit their service if they don't agree to conditions of their employment and thus abandon their employees. This is especially problematic in the provision of security services. Similarly, PMCs may also choose to cooperate with whoever pays best, which could be a despotic government or a non-legitimized ruler, and give them more power (Singer 2005: 2 et seq.). Moreover, states cannot oversee who is employed by PMCs as they might employ former (violence) criminals or unqualified personnel. Hence, there is a lack of transparency. The final issue is less related to principal-agent relations but is salient as well. It entails that national armies are also affected by PMCs as they may "endanger the health of their profession" and entice well-trained staff away due to high salaries (Singer 2005: 5).

Notwithstanding these issues, PMCs are contracted more and more often (Kinsey 2006:2, Singer 2001/2002: 187). This can be seen in the fact that general expenditures for contracting PMCs have "topped \$1 trillion worldwide by 2001" and doubled "in just three years", and the financial volume of the deployments of PMCs to Afghanistan and Iraq have "tripled since 9/11 to \$140 billion"⁶ (Schreier/Caparini 2005: 6, International Consortium of Investigative Journalists 2013). Discussed reasons for the deployment of PMCs are their cheapness and expertise and their quick operational readiness. Kinsey, for example, writes that the increased hiring of PMCs after the Cold War has been part of the "enthusiasm of outsourcing government services" (Kinsey 2006: 3). He also supports the argument of Schreier and Caparini who say that PMCs are used for certain tasks in order to save military strength for more important tasks (Schreier/ Caparini 2005: 82). Similarly, governments may have increasingly relied on PMCs to save money to develop new technologies (Krahmann 2005(a): 253 et seq.). However, PMCs are also said to be used to circumvent public accountability of governments, democratic scrutiny and legal limits (Maogoto 2006: 152, Singer 2001/2002: 218). Hence the accountability is both a reason for hiring and a recognized problem of deployments of PMCs. "Contracting out security operations allows governments to take the credit when things go well, but to avoid taking the blame should things go wrong" (Kinsey 2006: 96).

Examples of the usage of PMCs are the deployment of Executive Outcomes in Angola against the Angolan rebel group UNITA in 1993 (Shearer 1998: 73) and the deployment of Military Professional Resources Inc. in the Balkan conflict at roughly the same time (Zarate 1998: 76). Additionally, there are the current employments of several PMCs by the USA in Iraq and Afghanistan, such as Blackwater and DynCorp, whose deployment will be further outlined in the following chapters (Krahmann 2013: 53, 60).

Finally, one can say that the literature regarding sovereignty and PMCs shows changes in perceptions related to both concepts. The current notion of sovereignty considers it as dependent on

⁶ Meaning 1.000.000.000.000 (short scale).

the fulfilment of the duties of state and PMCs are deployed more and more often although they undermine the state monopoly on force and thus the sovereignty of states. Since this study analyses in a broader sense which factors incite states to outsource security tasks, the study is to be positioned at the intersection of these two phenomena. This intersection entails that the control of force, which presupposes the applied notion of sovereignty, gets diluted by the deployment of limitedly accountable PMCs and that therefore state sovereignty is undermined.

3. The United States, Private Military Companies and the War on Terror

This chapter provides the historical background of the study and explains the broader context of the cases, which are the deployments of Blackwater to Afghanistan and Iraq. As this context has been created by the US and as the company was contracted by US agencies, the focus will be on the US but Afghanistan and Iraq will also be approached.

First, the relation between the US and PMCs is discussed and subsequently, initial facts about PMCs in the WoT are presented. Afterwards, the research questions are formulated. While interpretations of the WoT are outlined in appendix I, a more specific background of the cases will be provided within the empirical analysis.

3.1. The United States and Private Military Companies

“Despite being the dominant power in the international scene today, the [US] may make the most extensive use of the privatized military industry” (Singer 2003: 15). The strong relationship between the USA and the private military industry is grounded in the importance of the Military-Industrial Complex (MIC). The MIC is considered to be the best example of political economy which is “the interface of State and market” and

investigates the possession of power by large organizations such as corporations, the military, trade associations, and labor unions in terms of who was responsible for consolidating that power, and when, how, and why it was created and transmitted.
(Peterson 1991: 15)

Hence, the MIC is “an informal, loose but effective coalition of vested-interest groups who derive political power, social status, and economic benefits from the fear of communism, the Cold War, and extensive military preparedness both offensively and defensively ” (ibid: 144). Today, the fear the MIC benefits from is that of terrorism (Engelhardt 20/10/2011).

The MIC originates in the North-American industrialisation, which began in the aftermath of the Civil War and in World War One when many engineering firms were obliged to provide warfare material and in turn earned huge profits. This working partnership between “executives from leading U.S. manufacturing firms [...], high-ranking military officers in the Pentagon [...], and senators and representatives” (Peterson 1991: 144) grew closer during the Great Depression when the functionaries of the MIC managed to convince the US administration that outsourcing of military functions would “salvage private enterprise and market capitalism” (ibid: 148). The mutually beneficial working relationship between the “military and private enterprise” was again deepened during World War Two when “countless agreements were made” (ibid.). In the post-World War II period, North-American policy makers pursued investment policies which were supposed to “utilize excess productive capacity and to augment aggregate demand” (ibid: 151) and applied them largely to military policies. During the Cold War, research and development (R&D) were focused mainly on war technologies and “a new kind of post-war science, one that blurred traditional distinctions between theory and practice, science and engineering [and] civilian and military” was created (Leslie 1993: 2). “By the end of the Korean War”, spending for R&D was “fifty times higher than prewar levels” (ibid: 1). Consequently, the use of private military actors by the US increased and due to the close working partnership and growing power of the MIC, it has been able to heavily influence US policy makers - “significant aspects of the nation’s industrial policy [were] drafted by the military” (Leslie 1993: 1 et seq.). The functionaries of the MIC are said to have induced the belief of the North-American policy makers in the effect of increasing efficiency and effectiveness of military policies by outsourcing military functions (Kinsey 2006: 98, Leslie 1993: 1, Peterson 1991: 150). In 1961, outgoing President Eisenhower coined the phrase “Military-Industrial Complex”:

‘We must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex,’ Eisenhower warned. ‘The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes.’

(Eisenhower 1961 in Roberts 10/12/2010)

Already at that time, Eisenhower imagined the influential power the MIC and later the PMCs could or would have. And while the criticism regarding the MIC in the 1960s mainly included concerns “of actually going to war” (Fallows 2002: 46), in the 1970s the criticism shifted towards concerns regarding the “interest that presumably kept profiting from the war” (ibid.). Indeed, the functionaries of the MIC still “lobby the Congress to increase military spending” (Peterson 1991: 145). Nowadays, the budget of the Pentagon is 50% higher than “the Cold War average” and “4.2 million federal workers and employees” of military firms have security clearance (Engelhardt 20/10/2011). The influence of the MIC on North-American politics and society is nowadays considered to be so high, that the North-American culture is considered as having been militarized (O’Connell 4/11/2012).

The MIC experienced its first upturn after the Cold War when, while the defence budget was decreased, many conflicts and threats emerged which needed to be addressed and the assortment of the companies of the MIC gradually involved personnel services such as private military or private security guards. The PMCs deployed by the USA experienced the peak of their success after the 9/11 attacks when “‘American safety’ (narrowly defined as ‘from terrorists’) became the mantra of the moment” (Engelhardt 20/10/2011). The share prices of many PMCs doubled and, as “a spokesperson of the Pentagon’s Defence Security Cooperation Agency explained: ‘the War on Terror is the full employment act for these guys’” (Kinsey 2006: 109 citing the spokesperson). “These days it’s only a slight exaggeration to claim that [the MIC is] Washington” (Engelhardt 20/10/2011).

There are two US laws which are used to regulate the deployment of PMCs, the Arms Control Act (ACA, 1976) and the International Traffic in Arms Regulations (ITAR, 1976). The laws say that every PMC has to register with the State Department’s Office of Defence Trade Controls in order to get a licence and to be allowed to work for foreign states. The Congress is only to be notified if the contract value with a foreign government is more than \$50 million. However, US departments can contract PMCs too (Irvin 2010/2011: 452 et seq.), making the contract the “primary means of regulation because the licensing scheme does not apply” (ibid: 452). The Department of Defence’s (DoD) Foreign Military Sales programme also offers the option that “the Pentagon pays the contractor for services offered to a foreign government, which in turn reimburses the Pentagon” (Peterson 10/8/2011). This procedure also does not require the licence by the US administration. Finally, the licensing does not apply to contracting with an intelligence agency. The prosecution of PMCs also has to follow several laws, the Military Extraterritorial Jurisdiction Act (MEJA, 2000), the Uniform Code of Military Justice (UCMJ, 1950) and the Alien Tort Statute (ATS, 1789) (Irvin 2010/2011: 452 et seq., 457 et seq.).

This legal framework entails certain issues. Regarding the laws which regulate the usage PMCs, the issue is that after a licence has been granted or a contract has been made, there is hardly any supervision anymore – “no single government-wide agency monitors the performance of companies” (Stanger/Williams 2006:13). This is especially salient regarding the contracting as the outsourced tasks are too encompassing to be sufficiently monitored anyway (Irvin 2010/2011: 457). Furthermore, the lack of control by the Congress for contracts worth less than \$50 is controversial and “U.S.-based PMCs seeking to do business abroad may simply move to another country with less restrictive licensing schemes” (ibid: 456). Regarding the laws for prosecution, the main issue is that while many PMCs work for the US Department of State (DS), MEJA and UCMJ only applied for contracts with the US DoD until the House of Representatives passed a bill in October 2007 saying that the MEJA applies for all PMCs deployed by any department – before, PMCs employed by other agencies could hardly be rendered liable for their actions (Irvin 2010/2011: 457, Krahnmann 2013: 63). However, it is still very complex to figure out under which law PMCs are to be prosecuted, international law, US law

and which US law or the law of the hosting country, and prosecution always requires a case-by-case decision by the prosecutors. The lacking legal category of PMCs renders their prosecution highly difficult (Mlinarcik 2006: 138 et seq.).

Stanger and Williams summarise the legal problems as a lack of transparency and a resulting lack of accountability of US PMCs and their actions (Stanger/Williams 2006: 12).

3.2. The War on Terror and Private Military Companies

Despite the lack of accountability, “the United States is relying heavily [...] on private firms to supply a wide variety of security services” in Afghanistan and Iraq (Schwartz 2011: 1). The numbers of PMCs in these countries have only recently been decreasing.

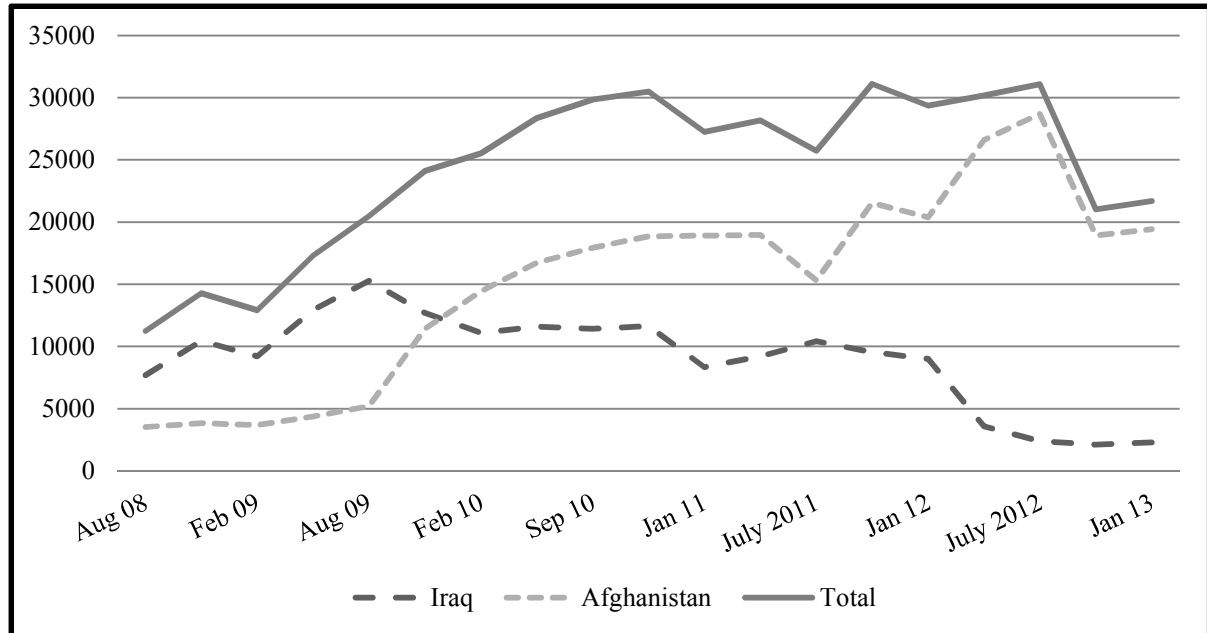


Figure 1: US Department of Defence armed Private Security Contractor Personnel in Iraq and Afghanistan, Source: CENTCOM Quarterly Contractor Census Reports (Office of the Deputy Assistant Secretary of Defence 2013)

The PMCs sent to Afghanistan and Iraq did not have to undergo the licensing procedure as they were contracted by US departments and the CIA. The DS, for example, has used so-called Worldwide Personal Protective Services (WPPS) contracts (CBS news 6/10/2010). PMCs have also been deployed by the DoD, which allegedly spent half of its budget on private contractors from 1998 until 2003 (Kidwell 2005: 29). Consequently, the ratio of private contractors to troops on the ground has been comparatively high⁷.

Significant is that when the PMCs were deployed to Afghanistan and Iraq in the beginning of the 2000s, both the domestic legal framework of the US and the international legal framework were insufficient; the efforts to establish an international legal framework were only starting simultaneously with and due to the deployment of PMCs to Afghanistan and Iraq and the MEJA was not applicable to all PMCs. Hence, they were deployed with hardly any legal governance and accountability.

⁷ The reason why the numbers of private contractors differ between figures 1, 2 and 3 is that due to the minimal oversight, there is no solid number of how many contracts have been deployed (Isenberg 2004: 7).

3.2.1 Afghanistan

“In Afghanistan, there were recently 52 [PMCs] licensed to operate with some 30,000 registered security contractors” (Schwartz 2011: 3). While they are legally limited to 500 employees per company, many PMCs have exceeded that limit or have operated without a licence (ibid.). The high numbers of PMCs in Afghanistan are explained by the fact that the PMCs provide services to the International Security Assistance Force (ISAF) which consists of more than 30.000 troops and thus requires many private supporters, and by the fact that the Pentagon had anticipated a military surge and hence expanded its facilities (ibid: 11). However, many PMCs deployed in Afghanistan work for the CIA. And although the Afghan government officially seeks to decrease the numbers of PMCs working in their country, the number of PMCs in Afghanistan is still comparatively high.

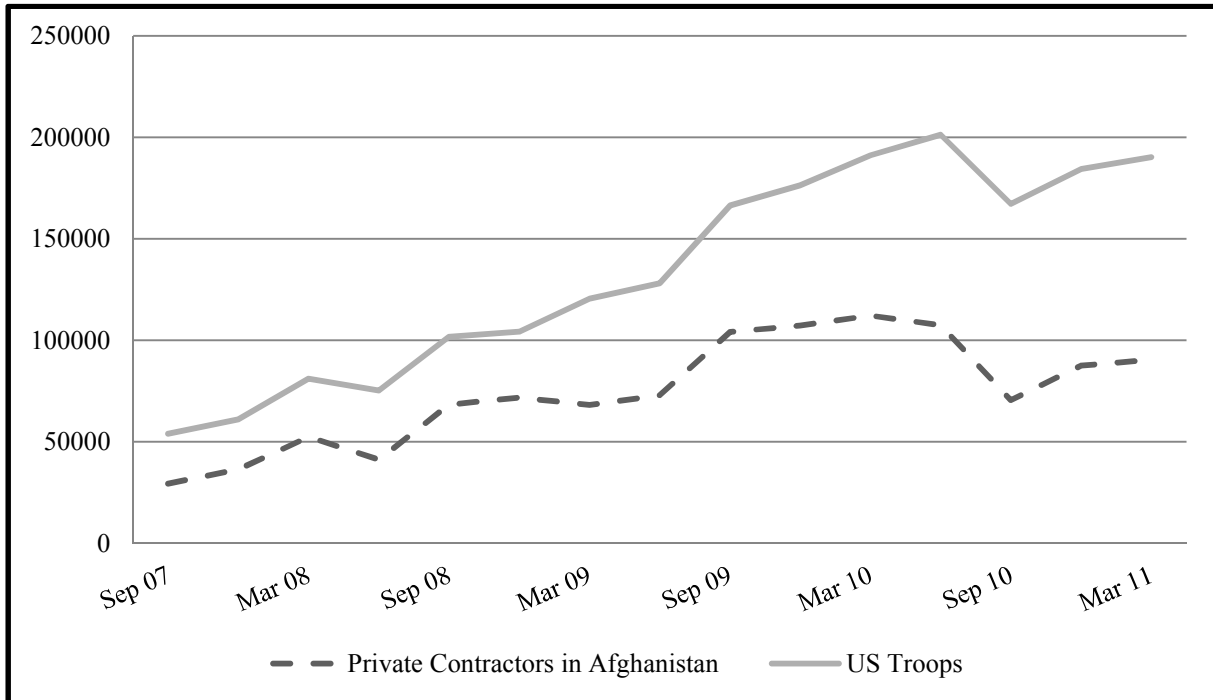


Figure 2: Number of US troops and PMCs in Afghanistan, contracted by the Department of Defence, source: Schwartz/Swain 2011: 29 – based on CENTCOM Quarterly Contractor Census Reports and “Boots on the Ground” monthly reports to Congress.

3.2.2 Iraq

The tasks of PMCs in Iraq were many, from base support to security services. However, the PMCs in Iraq gained prominence not only because of their various tasks or because their high numbers made the media sit up and take notice but due to the scandals they evoked, most famously the abuses in the Abu Ghraib prison, the shooting at Nisour Square and the Fallujah Ambush. In February 2004, the Coalition Forces in Iraq were informed by the ICRC about human rights violations and torture of prisoners in Abu Ghraib. The publication of the entailed pictures caused worldwide indignation and the case was investigated by the US military.

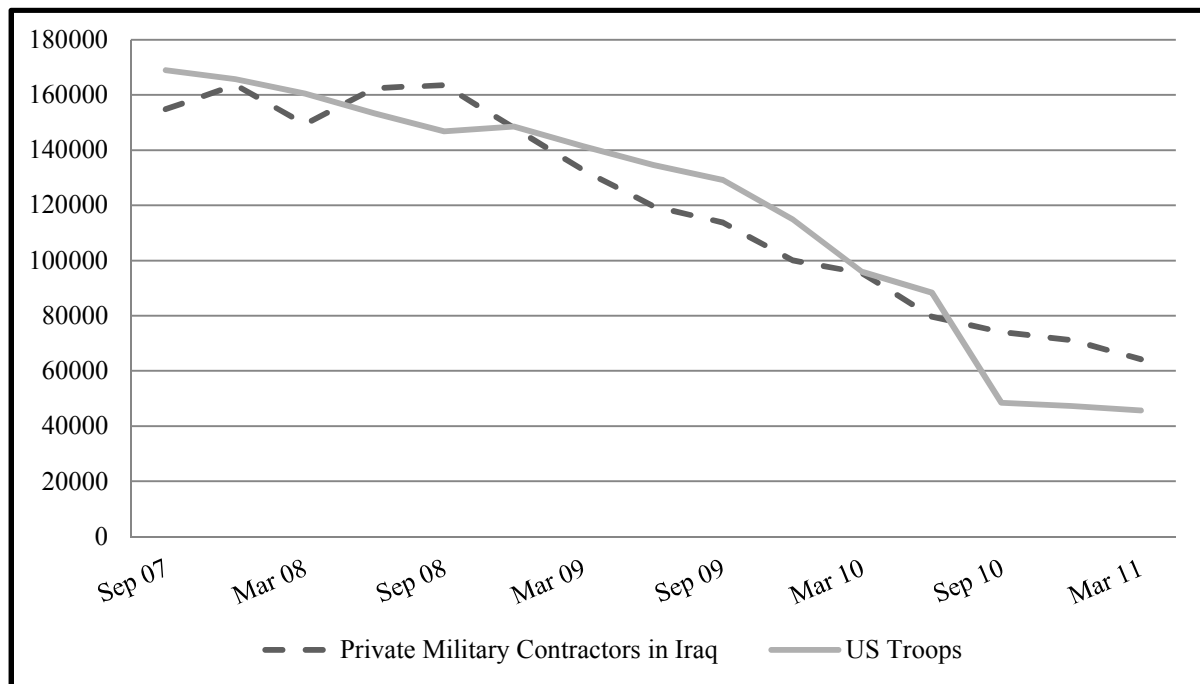


Figure 3: Number of US Troops and PMCs in Iraq, contracted by the Department of Defence, source: Schwartz/Swain 2011: 28 – based on CENTCOM Quarterly Contractor Census Reports and „Boots on the Ground“ monthly reports to Congress.

The outcome of the investigation was that “Coalition Forces were responsible for ‘systemic’ and ‘illegal abuse of detainees’ held at Abu Ghraib prison between August 2003 and February 2004” (Amnesty International 2006: 10). One third of the incidents were committed by private contractors employed by the companies Titan, Engility Holdings and Caci. Furthermore, while the involved US soldiers were convicted, sentenced to prison and the last soldier has already been released in August 2011, the first trial against PMCs in this regard finished in January 2013 - Engility Holdings had to pay \$5million as settlement agreement (BBC News 9/1/2013, Singer March/April 2005). While this case refers to issues of prosecuting PMCs, another case shows the difficult legal protection of PMCs. On 31/2/2004, four employees of the PMC Blackwater who were meant to guard a caterer in Fallujah were ambushed by locals in their vehicles and killed by shells, machine guns and with bare hands. Their dead bodies were hung on a bridge in the city (Scahill 2008: 165 et seq.). Afterwards, it was revealed that the guards had not been familiar with the surroundings and had been highly underequipped. Therefore they could not defend themselves. However, the question of who was to be held responsible for the incidents and the question of which law the prosecution of the accused had to follow proved difficult. In the end, the families of the killed Blackwater guards sued the company under US law for wrongful death because the company was seen as responsible for the lack of equipment and preparation of the guards. However, the cases were dismissed in 2011 (Baker 26//2011).

Another case which shows the difficulties in prosecuting PMCs happened in 2007. On 16/9/2007, contractors of the PMC Blackwater crossed the Nisour Square intersection in Baghdad in military vehicles, but stopped and began to fire their weapons “randomly” (eye witness cited by Scahill 2008: 4). While the Blackwater employees have claimed that the Iraqis had opened fire, all Iraqi witnesses unanimously reported that the Blackwater soldiers “wantonly shot unarmed civilians and were never in any danger” (Devereaux 5/6/2012). Some eye witnesses say that “some sort of explosion had gone off in the distance, too far away to have been perceived as a threat” (Scahill 2007: 7). In the end, 36 Iraqis were shot of whom 17 died. The case had been brought to court in the US, but in December 2009 it was thrown out due to a “reckless violation of the defendants' constitutional rights” (Judge Ricardo Urbina in Devereaux 5/6/2012). However, Blackwater allegedly paid \$100.000 for each death to the families and \$1million to the Iraqi administration to buy leniency (Mazzetti/Risen10/11/2009). The case was reopened in April 2011 and has not been closed as of June 2012 (Devereaux 5/6/2012). More recent information is not available.

Finally, it is important to outline that the presence of PMCs in Afghanistan and Iraq can also be considered as undermining the sovereignty of these countries. The reason for this is that as there is no legal framework for governing PMCs, the control or prosecution of PMCs is neither sufficiently possible within the USA, as would be the case with US state soldiers, nor via international law. Both legal frameworks are lacking appropriate categories for PMCs which would give the Afghan and Iraqi administration the possibility to render PMCs acting in their countries liable for their actions – in conflict situations such as in Afghanistan and Iraq, “the potential for human rights abuses [...] is an ever present threat, and it is nearly impossible to hold PMSC employees accountable for their actions” (Gomez del Prado 11/10/2008). Regarding Iraq, the order of Ambassador Paul Bremer to make “contractors [...] immune from prosecution” (ibid.) is of special importance as it deprived the Iraqi administration of one of the few potential possibilities to hold PMCs accountable. And although this immunity was repealed in October 2007 and did not apply to PMCs deployed to Afghanistan, the countries were affected by the fact that “the ease with which private actors [...] can escape territorial reach undermines the enforcement of both national and international law” (Buzatu/Buckland 2010: 18). Consequently, the possibility to hold PMCs liable for incidents in Afghanistan or Iraq is limited. This undermines the state monopoly on – the control of – force of these countries und thus their sovereignty.

Summary

This overview has provided preliminary background information on the cases of this study. The chapter has shown that the North-American PMCs emerged from the close relationship between the US administration and the MIC and explained that the legal framework of PMCs in the US is murky. Additionally, the chapter has revealed that there is a comparatively high number of PMCs deployed in Afghanistan and Iraq and has outlined the famous incidents of Abu Ghraib and Nisour Square and the Fallujah Ambush. Finally, it has been outlined that the deployment of PMCs in the WoT can be considered as undermining the sovereignty of the US as well as of Afghanistan and Iraq. The research question(s) of this study draws on this fact and asks for the reasons why PMCs are deployed although they undermine state sovereignty. However, the question will be more specific as it asks why a certain PMC, Blackwater, has been deployed⁸. The fact that this company is seen as one of the most controversial PMCs makes the paradox of why this company has been deployed repeatedly even more explosive.

⁸ For the description of the company refer to appendix II.

3.3. Research Question(s)

The research question and the sub-questions draw on the paradox elaborated above: Blackwater has been deployed by the US to Afghanistan and Iraq although PMCs are limitedly accountable and thus their deployment is considered as undermining state sovereignty and although Blackwater is a highly controversial PMC. Consequently, the main research question reads:

“Why has Blackwater been deployed in Iraq and Afghanistan although the deployment of Private Military Companies undermines the sovereignty of states?”

In order to be able to account for the three countries which are part of this study and to consider the fact that US forces could have been deployed instead of PMCs there will be four sub-questions.

The first sub-question draws on the fact that US soldiers could have been deployed instead of PMCs in order to execute the particular tasks.

Sub-question 1: “Why weren’t US forces deployed to exercise the security tasks given to Blackwater?”

The following sub-questions split the main question and ask why the participating states have deployed or have acquiesced to the deployment of Blackwater respectively.

Sub-question 2: “Why has the US deployed Blackwater to exercise force in its name although PMCs are limitedly accountable and their deployment undermines the sovereignty of the US?”

Sub-question 3: “Why has Afghanistan acquiesced to the deployment of Blackwater although it is a limitedly accountable armed actor which potentially entails security risks for the Afghan people and undermines the Afghan sovereignty?”

Sub-question 4: “Why has Iraq acquiesced to the deployment of Blackwater although it is a limitedly accountable armed actor which potentially entails security risks for the Iraqi people and undermines the Iraqi sovereignty?”

These questions implicitly ask under which conditions on the part of the Afghan and Iraqi as well as the US administration Blackwater was deployed and why the contracts of Blackwater, especially in consideration of the outlined incidents, were extended.

4. Research Design and Methodology

After a discussion of research designs, the chosen design is outlined and the appropriate methodology described. Subsequently, the reliability and validity of a study are presented.

4.1. Research Design: Causal-Process Tracing

This research contains the study of two events, the deployment of Blackwater to Afghanistan and to Iraq by the USA. As both deployments occurred in the context of the WoT, they are closely connected. Thus, the research is an in-depth analysis of a phenomenon with focus on the outcome, the deployment, and does not ask if certain factors induce a certain outcome but looks for all kind of factors which contribute to the outcome; it is an outcome-oriented study. Hence, it is not, for instance, the analysis of consequences after a “treatment”, a singular event, which happens in the real world, as it would be the case with quasi-experiments (Campbell/Ross 1970: 110 et seq.). Possible outcome-oriented designs are cross-sectional or time-series designs. The first entails the analysis of the variation of dependent and independent variables between “individual spatial units” (Kellstedt/Whitten 2009: 81) and the second the comparison of the variables within one unit over time (ibid: 82). The method used for these designs is the observation of a sample of a population, that is a selection of cases from all existing cases, and their goal is to find the relation of many variables which can be generalised to the population. While the method of observation is applicable to this study, the goal of this large-N approach does not meet the goals of this study. The goal is the in-depth analysis of one unique phenomenon and not to find laws which can be generalised to a population or to measure the influence of variables. Hence, this study requires an outcome-oriented small-N design; a case study (Yin 2009: 18). As there are two cases it requires a so-called multi-case design (ibid: 47). McNabb distinguishes between “instrumental, intrinsic and collective” types of case studies (McNabb 2010: 237). Regarding the first, he finds that they are used to “provide insight in an issue, not for any specific interest in the case itself” (ibid.). However, as this study contains two specific cases, such an approach is not applicable. An intrinsic case study, however, focuses on the specific case(s) and its or their features. Therefore, this study follows an intrinsic approach. The concept of a collective case study is similar to a cross-sectional design wherein variation or similarities of cases and variables respectively are to be found. However, this study does not seek to compare, and to find differences or similarities, but seeks to discover conditions which have led to the deployment of Blackwater although the deployment of PMCs is considered to erode the sovereignty of states. A design for finding the causal conditions for a certain outcome is provided by the technique of causal-process tracing (CPT) (Blatter/Haverland 2012: 84). This design has two distinct characterisations. First, it includes “configurational thinking”. This entails “especially the assumption that explanations should begin with the assumption that a plurality of causal factors work together to create an outcome” (ibid: 81). The second characteristic is “that CPT as a technique of drawing causal inference takes advantage of the fact that causality plays out in time and space” (ibid.).

Academics do not agree on a particular ontology and a particular epistemology of this design (ibid: 90). However, CPT has five core concepts which give answers to the ontological question concerning what one can find out and to the epistemological question regarding how one acquires new knowledge. The first is “contingency” which is supposed to show that cause and effect of a phenomenon are dependent on other cause and effect relations. The next concept says that configurational thinking requires the application of necessary and sufficient conditions and the third concept says that causalities can occur either in an additive or a cumulative manner. That is, particular conditions either build a chain of successively occurring causal effects which led to the outcome or commonly build one causal factor. Consequently, the fourth concept entails the distinction between causal chains and causal conjunctions. The last concept, “causal mechanisms”, describes causalities that happen on several analytical levels (ibid: 95). Hence, this study is based on a “configurational ontology and a critical-realist epistemology” (ibid: 99). This means that the things which one can find out are causal configurations (ibid: 41). Additionally, the entailed epistemology is foundationalist but, in contradiction to straightforward positivist epistemologies, suggests that

It is necessary to dig deeper into the social world by having a closer look at the processes, temporal sequences, underlying mechanisms, and conditionalizing contexts that constitute social entities and that have causal effects in the social world. Like the hermeneutics, critical realists try to understand the perceptions and intentions of social actors and the cultural and communicative contexts of social interaction.

(ibid: 12)

Therefore, a critical-realist epistemology is “a plea for overcoming the fundamental divide between positivist and constructivist Ontologies and Epistemologies” (ibid: 13).

Traditionally, scholars have distinguished between understanding phenomena and explaining them. While the latter has been tied to positivism and entails the presentation of brute or objective facts, the former has been tied to post-positivism and supposes that phenomena always have a certain subjective meaning next to their properties (Hollis 1994: 147 et seq.). Wendt, however, focuses on the questions researchers ask when conducting positivist or post-positivist research which are the questions for explanation and understanding. Additionally, he says that questions for explanations aim for causal answers and questions for understanding for constitutive answers (Wendt 1998: 103). He argues that causal and constitutive approaches are actually not mutually exclusive but both aim at explanation and understanding (ibid: 108, 117). The combination of positivist and post-positivist approaches is questioned as the positivist assumption of naturalism, that is to say that methods of natural sciences are applicable to social sciences too, does not account for the constitutive function intersubjective meanings have (Neufeld 1995: 75 et seq.). This means that positivist approaches do not approach “[webs] of meaning” which “are the product of the collective self-interpretations and self-definitions of human communities” and constitute new concepts (ibid: 77), but webs which are at best the “sum total of the subjective meanings” of individuals. However, Wendt argues that nature is the “material foundation” of society, that there are natural facts which influence society and that these facts are interpreted and perceived subjectively (Wendt 2010: 52, 57). Hence, the individual and subjective interpretations and perceptions of material facts constitute social reality. Wendt refers to the idea of concept based explanations and says “that answering what questions”, which first appear to be descriptive and tied to constitutive questions, “should be recognized as a valuable [...] kind of theorizing in its own right, and that [...] it can have explanatory as well as descriptive pay-offs” (Wendt 1998: 112). Hence, each description and each explanation conveys information about the individual properties and dispositions of concepts (ibid: 111 et seq.). Wendt also states that “ideas or social structures have constitutive effects when they create phenomena – properties, powers, dispositions, meanings etc. – that are conceptually or logically dependent on those ideas or structures, that exist only ‘in virtue’ of them” (Wendt 2010: 88). Ergo, by following the CPT approach, both the explanation and the understanding of the respective phenomenon, the deployment of Blackwater, are conveyed.

Based on the core concepts, the CPT approach suggests three versions of causal inference: “comprehensive storylines”, “smoking guns” and “confessions”. They “build the empirical basis the outcome in the case under investigation” (ibid: 111). Storylines focus on structural factors and “provide an overview of the overall process that has led to the outcome of interest” (ibid: 111). “Storylines” also show the most important structural causal conditions for the outcome (ibid: 112). “Smoking guns” are “central pieces of evidence within a cluster of observations” (ibid: 113) and show the temporal, social and spatial contiguity of cause and effect. “Confessions” are perceptions and statements of the individual actors which participate in the phenomenon which is analysed (ibid. et seq.). Additionally, “confessions” complement the inference of smoking guns as only the intention of an actor together with the actual effect of a smoking gun lead to the understanding of a certain outcome (ibid: 118). This means the causal conditions which have led to the employment of Blackwater in Iraq and Afghanistan are to be presented following the three causal inferences of “storylines”, “smoking guns” and “confessions”.

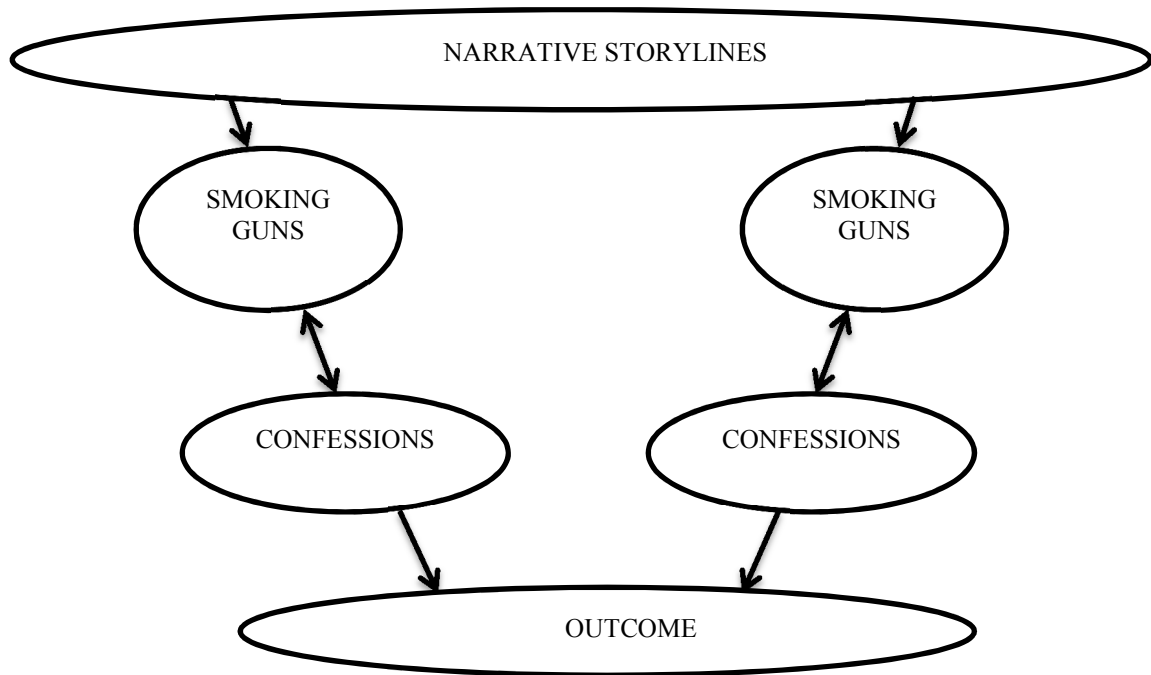


Figure 4: Causal-Process Tracing.

There are two logical foundations of these three causal inferences: causal chains and process dynamics. The first says that causal factors can be necessary conditions or sufficient conditions. A necessary condition means that “the outcome would not have occurred without this condition” and a sufficient condition means that “the factor has been able to produce the next step in the causal chain or the final outcome without further causal factors” (ibid: 120). The second logical foundation includes process dynamics and is based on ideas of feedback loops, lock-in effects and path dependencies (ibid: 121 et seq.). Consequently, there are two versions of conclusions in a CPT analysis. The first version focuses on the dynamics of different levels of analysis. The second version of conclusion entails necessary and sufficient conditions and the analysis of causal configurations on one level. This version is geared to the intrinsic explanation of an individual case as it is with this study (ibid: 137). Therefore, this study is concluded in accordance with the second version.

Finally, it is important to notice that the terminology of this approach differs from the usual terminology: instead of speaking of independent and dependent variables the terms “conditions” and “outcomes” are used (ibid: 107).

4.2. Research Methodology: Observation

Blatter and Haverland suggest that one gets the empirical evidence for a CPT design by thoroughly “soaking and poking” (Blatter/Haverland 2012: 105) in related information. Additionally, they define process-tracing observation as

empirical information that is used [...] to determine the temporal order in which causal factors work together to produce the outcome of interest [...] [and] to identify and to specify the social mechanisms that form the basis for mechanism-based explanations.
(ibid: 23).

It follows, that the method has to be a qualitative observation, which is an encompassing scrutiny of empirical information. According to Yin, sources of evidence in observational designs can be documentations, archival records, interviews, direct observations, participant observations and physical artefacts (Yin 2009: 102). Relevant for this study are mainly documentations and archival records, specifically written reports, administrative documents, formal studies and newspaper articles as well as survey data, so-called “public use files” and organizational records (ibid: 101 et seq.). Hence, the study will be based on desk research using newspaper articles, case-related books, reports published by the US Congress such as hearings, briefings and transcripts of US Congress committees, academic journals, reports and analyses from research, and information deduced from websites of relevant actors such as the US Department of Defence or the webpage of Academi⁹.

Potential problems are that some information and sources, especially containing specific information, might not be easy to find or not accessible at all, i.e. documents of the US administration and the CIA such as the contracts with Blackwater. Additionally, articles and books might be biased. Therefore, and because general information about deployments by the CIA is classified to a large extent and as there has hardly been any research into PMCs in Afghanistan (Seahill 2008: 411, Perry 2012: 41), the analysis of the deployment of Blackwater in Afghanistan focuses on the initial deployment. Similarly, as the later deployments to Iraq have been based on the initial deployments and as Blackwater has generally operated under hundreds of contracts, only exemplary contracts will be approached in the analysis on Iraq. Additionally, as Blackwater has been deployed by the US and as there is more information available regarding the US than regarding Afghanistan or Iraq, the analysis will focus on the US.

The problems of potentially inaccessible and/or biased information can be solved by conducting intensive and encompassing research. In including as much data and information as possible and carrying out detailed research, the relevant information can be found. The problem of biased information is to be ruled out by using information from diverse sources as this neutralizes biases. The biggest problem remains the inaccessibility of governmental documents. This can only be solved by using secondary literature such as articles, books and reports.

⁹ Blackwater’s new brand name.

4.3. Reliability and Validity

Research designs and methods always have to produce the same results when they measure the same phenomenon and they have to measure what they are supposed to measure, that is to say they have to be reliable and valid.

4.3.1. Reliability

The reliability of small-N studies has been questioned as the risk of making a mistake is comparatively high there being not enough cases to neutralise an error in the measurement of a case. However, as Blatter and Haverland argue, if a researcher has an in-depth understanding of the cases, s/he is less likely to make random errors as s/he is able to overview the relevant features of the case(s) (Blatter/Haverland 2012: 68). Furthermore, there might be some degree of subjectivity in a case study which heightens the risk that another researcher would get different results. This is why encompassing contextual information and knowledge from a variety of sources is necessary as they neutralise biases. Hence, both risks to the reliability of the study can be reduced by conducting in-depth research and using a wide range of sources.

4.3.2. Validity

Validity is traditionally split up into external validity, which entails the generalisation of the cases to the basic population, and internal validity, which means that the inferences from a study have to be causal and indeed measure what was initially supposed to be measured (Kellstedt/Witten 2009: 73 et seq.).

The validity of the CPT, however, does not come from traditional generalisation inference. While the whole approach is based on inference drawn from context and causal conditions, a traditional generalisation of a CPT study to a larger population of cases is hardly possible as the cases are individual and have certain characteristics which do not necessarily apply to the whole population. Additionally, as an outcome-oriented case study design, its “directions of generalisation are entirely different [...] the goal is to specify the set of causal configurations that make outcomes possible” (Blatter/Haverland 2012: 136). The focus is hereby on explaining the conditions for the certain case(s) and generalisation can only be possibilistic. That is to say the reasons why the USA, Iraq and Afghanistan deployed Blackwater or acquiesced to the deployment can make it possible that states do the same for the same reasons; however, it is not given that these factors apply to all states. Traditional external validity is not given. But as small-N studies allow in-depth analyses of individual cases, the analysis is likely to grasp the true meanings of concepts. Following the epistemology of the CPT, the very substance of the measured concepts is studied. Hence, a CPT approach allows that what was initially supposed to be measured is indeed measured.

4.3.3. Summary

The research design which will be used to find answers to the research question(s) is CPT. While this design aims at both explaining and understanding the phenomenon, the deployment of Blackwater, the causal conditions have to be subsumed under the three inferences of the causal-process tracing approach: the “narrative storyline”, “smoking gun observations” and “confession observations”. The methodology following this approach is the observation of all relevant empirical information. This design and methodology provide reliable and valid research.

5. Theoretical Framework

The theoretical framework of the study has to include the starting point of the study which is the use of private actors in international security and the conditions which have led to it. Therefore, it has to be able to explain why states use PMCs and delegate the execution of force to them. Hence, the theoretical framework has to encompass today's international security architecture, its dynamics and norms.

5.1. The International Architecture

The current conception of the international system states that it is complex and interdependent. Some academics even argue that the world has “moved beyond interdependence” (Slaughter 2004(b): 286) where “states are bound in a tightly woven fabric of international agreements, organizations and institutions that shape their relations with each other and penetrate deeply into their internal economics and politics” (Chayes/Handler Chayes 1995: 26). Slaughter considers the “new world order” as being ordered by vertical and horizontal networks. These networks are, according to Slaughter, based on disaggregated states whose institutions and actors cooperate with their domestic and foreign counterparts and those at the supranational level (Slaughter 2004 (a): 131). Hence, while states still have the primary authority, they are no longer to be seen as unitary entities but as clusters of individual, independent units of “all the different institutions that perform the basic functions of governments” (ibid: 5). Here is where the perception of sovereignty used in this study ties in:

In a world in which sovereignty means the capacity to participate in cooperative regimes in the collective interests of all states, expanding the formal capacity of different state institutions to interact with their counterparts around the world means expanding state power. Even in the conditions of a very changed world, sovereignty would once again mean what it should mean most fundamentally: A state's right and duty to protect and provide for its people.

(Slaughter 2004 (b): 327).

The IR theory liberalism entails a kind of disaggregation too. Its assumption is that “the fundamental actors in international politics are individuals and private groups” and not uniform states (Moravcsik 1997: 516). These actors pursue the maximisation of their utility, namely the enforcement of their interests in the political arena. The interests of the stakeholders with the most material or social power are most likely to be politically enforced (ibid: 516, 517). Consequently, states are “representative institutions” of the domestic interests in the international arena and sovereignty is considered as being constituted by particular notions and preferences of powerful actors of civil society (ibid: 518, 519).

The preferences of all states, constituted by societal interests, determine the pattern and dynamics of the international system and the behaviour of states can be traced back to three “causal mechanisms linking social preferences and state behaviour” (ibid: 515): “ideational liberalism stresses the impact on state behaviour of conflict and compatibility among collective social values or identities concerning the scope and nature of public goods provision” (ibid.), commercial liberalism says that the behaviour of states is influenced by the economic gains and losses of the domestic actors, and republican liberalism “stresses the impact on state behaviour of varying forms of domestic representation and the resulting incentives for social groups to engage in rent seeking” (ibid.). This approach reflects, on the one hand, the shift of the central reference object in international affairs and IR theories as outlined in the second chapter – people instead of states are increasingly considered to be the central power- and rights-holders in the international arena. On the other hand, this approach may provide an explanation of why the US has deployed Blackwater. Recalling the power of the MIC, the deployment of PMCs may be originated in the interest of powerful domestic actors, such as pressure groups, which enforced the deployment of PMCs.

Returning to the topic of disaggregation, Slaughter argues that the fragmented and interdependent new world order is characterised as a system of global governance (Slaughter 2004(a): 15). The concept of governance is comparatively vague but bears distinct characteristics. Van Kersbergen and

van Waarden, for example, write that networks are “a main strand” of governance and that they are characterised among others as self-organising, as developing their own policies and as exchanging their resources (van Kerbergen/van Waarden 2004: 148.). They also find that there have been shifts in governance, vertical shifts from the national level to both the supra- and sub-national level and horizontal shifts to semi-public and private actors and that these shifts entail problems of governability, accountability and legitimacy (ibid: 158 et seq.). Daase and Friesendorf divide governance into governance by government, governance with government and governance without government. The latter addresses decision making by private actors without the interference of state-agencies and which also entails problems of legitimacy and effectiveness (Daase/Friesendorf 2010: 3 et seq.). Here it becomes clear that the assumption by van Kersbergen and van Waarden about the shifts in governance is questionable. As governance as such does not exist without these shifts, one might argue that these shifts constitute governance rather than they are a development of it. Krahnmann finds that there are new “structures and processes which enable a set of public and private actors to coordinate their interdependent needs and interests through the making and implementation of binding policy decisions in the absence of a central political authority” which Krahnmann defines as governance (ibid: 11). Therefore, the governance architecture of the international system can be characterised as being composed of several levels with several actors working interdependently together. They collaborate in particular policy fields and stem from the public, semi-public and private sector. Hence, the governance approach encompasses the disaggregation of the international architecture, includes the collaboration of several kinds of actors and allows a comprehensive understanding of the dynamics of the international system.

5.2. Security Governance

The governance dynamics are considered to apply especially to international security for several reasons. First, there are new security threats, such as terrorism and globally organised crime, new actors, such as terrorists, and new forms of coordination, such as networks, in the international security arena (Daase/Friesendorf 2010: 2, Krahmman 2005 (b): 16 et seq.). Additionally, “the concept of security was further extended” to societies and individuals as the new reference object in international affairs (Daase/Friesendorf 2010: 3). Another reason is composed of questions which have emerged in the context of the post-Cold War international security environment such as “what are the consequences of the fragmentation of security policymaking among state and non-state actors for policies, their implementation and their effect on the level of security? Who dominates contemporary security governance arrangements and why?” (Krahmann 2005(b): 20). In order to address questions and following what has been said above, two theoretical frameworks have been developed: security governance and network analysis. While network analysis focus on the structure of coordination, security governance approaches the change in policymaking towards disaggregation (ibid: 20 et seq., Krahmman 2003: 5 et seq.). It encompasses the creation of new institutions which address “the specific security needs of a limited number of countries rather than the transatlantic community as a whole” (Krahmann 2003: 8) as well as the new security issues these institutions deal with, the increasing implementation of security policies by changing coalitions of states and “concerns the management and control of the process by which security is being provided by multiple types of agents and actors beyond the state” (Caparini 2006: 264). The latter includes the increasing privatisation of the armament industry and the “proliferation of contract private security firms” as “governments are progressively turning to the resources and expertise” of non-state actors and increasingly aim at building “complex governance networks of public–private partnerships” (Caparini 2006: 265, Krahmman 2003: 9, Daase/Friesendorf 2010: 5). Thus, the security governance approach specifies the perception that actors in the disaggregated international system exercise an interconnected way of acting with regard to security policy. As it especially comprises the increasing inclusion of non-state actors in international security, it will be used to elaborate the hypotheses.

The question asking what has induced the shift from traditional state-centric governing via governments to fragmented (security) governance has not yet been sufficiently answered, but certain factors have been discussed. Dominant factors are cost-efficiency rationales, the awareness that global problems and new threats need global responses, increased transnational contacts and faster communication (Spearin 2003: 28, Slaughter 2004 (a): 2, Zangl/Zürn 1999: 140). The cooperation between various actors is also expected to produce more effective results as it brings together the expertise and resources of these actors (Daase/Friesendorf 2010: 1, Markusen 2003: 486 et seq., Johnston 2006: 33). Yet, these factors are not sufficient for conducting an analysis and the literature regarding governance is more descriptive than analytic; most authors have busied themselves with examinations of what governance is, what it claims, but not what it predicts and how it is to be explained. This is where the theoretical relevance of this study ties in which is elaborated before the analysis. Notwithstanding this, Krahmman suggests a primary framework for the analysis of security governance. She describes seven dimensions which “can take a variety of forms along a scale between the ideal notion of government [...] and governance”, both ideal types of centralisation and fragmentation (Krahmann 2003: 12). These dimensions are:

1. Geographical
This dimension includes transformation of policymaking by the state to policymaking by either inter- or supranational institutions, by sub-national entities or by private actors.
2. Functional
This dimension says that in the context of governments, policymaking of different issue areas is conducted by one coherent system and that in the context of governance each issue is approached by individual collective actors.

3. Resources
This dimension says that resources are either provided in a centralised way or by public and private actors who then “have to coordinate their efforts in order to resolve common problems” (Krahmann 2003: 12).
4. Interests
This dimension says that regarding government and centralisation, the focus lies on common interests which are superior to individual interests. Regarding governance and fragmentation, interests are considered to be heterogeneous and can be pursued individually.
5. Norms
This dimension stipulates that there is a strong state on the one hand and the right of self-determination on the other. The norms are sovereignty, command and control by a central authority and “the ideal of redistribution” vs. the limitation of sovereignty, self-government and the “marketization of social relations” (ibid: 13).
6. Decision Making
This dimension specifies that there is a differentiation between central, hierarchical and democratic decision-making and horizontal decision-making via negotiations and potential structural inequality.
7. Policy Implementation
This dimension states that implementation is either centralised and potentially coercive, or decentralised, self-enforced and potentially voluntary (Krahmann 2003: 12 et seq., 2005 (a): 250 et seq.).

According to Krahmann, mainly the shifts to fragmentation in the dimensions of function, resources and norms have caused today’s international security architecture (Krahmann 2003: 13). These dimensions, however, only show the distinctions between government and governance and do not reveal why the focus is rather on the one or the other. This is why on the background of these dimensions specific factors which induce the shift to governance that is to say make governments outsource military tasks have to be elaborated in order to make assumptions regarding the motives for deploying Blackwater to Afghanistan and Iraq.

Prado proposes four reasons for privatising security which are related to Krahmann’s dimensions and to the approach of security governance. The first reason is that outsourcing security can be cheaper as private actors are more flexible or have “lower running costs because they hire already trained personnel and because they do not provide the extensive range of personal support [...] that the state provides for its soldiers” (Avant 2007 in Prado 2009: 110). Similarly, the second reason says that the use of private actors can be a more efficient “use of state resources” because private actors make it possible to free other governmental resources such as money and personnel or “may provide the same service for lower cost”(Prado 2009: 110). Both reasons are based on similar ideas as the resource dimension of Krahmann: after the Cold War, many defence budgets were cut and due to rising costs for the maintenance of high-end military technologies and R&D in this field, governments were forced to look for cheaper ways to provide national security and to obtain the required resources. Hence, they turned to private providers (Krahmann 2003: 16). The next reason Prado lists is that privatisation can, on the one hand, cause less trouble regarding bureaucratic, democratic or judicial procedures – regulations, such authorisation by the parliament, can be circumvented and the implementation of security policies be more flexibly. Similarly, publicity of the deployments, public debates or phenomena like the “body-bag syndrome”¹⁰ are avoided. On the other hand, using private actors

¹⁰ The phenomenon that increasing numbers of war casualties (state soldiers) evoke war-fatigue and affects political decisions (Smith et al. 21/3/2001).

dilutes the direct link from war-related activities to the administrations. The last reason Prado proposes is that governments may not have another choice than deploying PMCs as they may not have enough capabilities to assume particular tasks themselves. This can happen in the course of a war when all resources are deployed or because private actors may have special expertise which is needed in a particular situation (Prado 2009: 109 et seq.). All factors mentioned by Prado are similar to the functional dimension of Krahmman:

The growing recognition of non-traditional areas of security combined with the limited expertise and resources of governments in these areas has strengthened the role of private actors in the governance of security and thus the trend towards functional specialization.
(Krahmann 2003: 15)

Hence, only the normative dimension is not reflected in the factors listed by Prado. However, as this study pivots around the norm of sovereignty, norms have to be incorporated in the theoretical framework.

5.3. Norms and Ethics

While IR theories used to be dominated by rational approaches, from the beginning of the 1980s onwards these theories increasingly started to focus on norms and values. This applies especially to post-positivist theories which emerged during this time, for example constructivism (Finnemore/Sikkink 1998: 890, Frost 1998: 126).

Constructivism states that the social world is constructed by ideas of the actors within it (Wendt 1992: 398) and one can discern two core assumptions. The first is that “people act towards objects, including other actors, on the basis of the meaning that the objects have for them” (ibid: 398 et seq.). Hence, “material structures [...] are given meaning only by the social context through which they are interpreted” (Checkel 1998: 326). The second assumption is that “the meanings in terms of which action is organized arise out of interaction” (Wendt 1992: 403). Hence, there is a “process of interaction” between agents which constitutes concepts of the social world (Checkel 1998: 326, Wendt 1992: 403). One of these concepts is sovereignty, which can only exist as states intersubjectively consider themselves and/or other states as sovereign (Wendt 1992: 412). Other institutions are also socially constructed; they are “cognitive entities that do not exist apart from actors’ ideas about how the world works” (ibid: 399). Following intersubjective ideas about how the world is constructed, actors apply logics of appropriateness and constitute norms to specify what to do in certain situations (Checkel 1998: 326). Norms are perceived as “a relatively stable set or ‘structure’ of identities and interests” (Wendt 1992: 399). Finnemore and Sikkink define norms as “standard of appropriate behaviour for actors with a given identity” (Finnemore/Sikkink 1998: 891). They add that norms are set apart from other kinds of rules by their “prescriptive (or evaluative) ‘oughtness’” and that they bear certain intersubjective and evaluative dimensions (ibid.). The term “oughtness” refers to the fact that norms suggest what ought to be done in particular situations (ibid.). Similarly, Florini points out that norms are “standards of behaviour and not just behavioural regularities” and that “the distinctiveness of a norm is the sense of ‘ought’” (Florini 1996: 364.). Frost also refers to the notion of “oughtness”. He states that the conviction of what “ought to be done” is based on the belief of what is ethically right (Frost 1998: 120). Frost argues:

In order to participate in international affairs, either as an individual or as part of a collective actor [...], one has to have some understanding about what is happening around one and why [...]. This requires that one understands the ethical dimensions of what has gone on before, the ethical dimensions of the present state of affairs, the ethical aspects of various policy options [...].
(Frost 2009: 7)

It follows that every action is grounded on what the actor perceives as ethically right (ibid: 11). Thus,

key actors, both states and individuals, are best understood as entities that are constituted as actors of a certain kind within specific global social practices, [the society of sovereign states and the global civil society] each with its own internal ethical structure. [...] These constitutive practices are themselves underpinned by [...] sets of ethical values [...].
(ibid: 19)

Hence, such global practices are characterised by providing their participants a “complex set of rules which specify, among other things, [...] what would count as disqualifying behaviour by a participant [...],[and] what range of actions are available to qualified participants” (ibid: 20). While the global civil society (GCS) bases on human rights (Frost 2009: 72, 73), it is significant to this study that Frost seeks to find out the ethical foundations of the GCS by analysing different appraisals of PMCs. He discovers that the appraisals which criticise PMCs for i.e. their profit-oriented motivation focus on values derived from the society of sovereign states (SOSS) such as accountability and transparency (ibid: 76, 91). Regarding the “pro-PMC appraisals”, he finds that, while these appraisals consider PMCs as right holders in a global market, PMCs are “in many ways supportive of the ethical philosophy internal to the practice of GCS” such as meeting legitimate demands and fulfilling contracts from which both contract parties benefit. Frost adds societal structural conditions which

entail the requirements of integrity and probity and force PMCs to act truthfully (ibid: 90). Frost also stipulates that the SOSS is there to protect human rights:

It is [...] the case that states are useful to us in an instrumental way when it comes to protecting human rights. The liberal tradition in ethical theory has always defended states as mechanisms rights holders have established for the protection of their pre-existing human rights. (ibid: 109).

While this puts the GCS prior to the SOSS and corresponds with the responsibility to protect, Frost has also looked at different appraisals of the war in Iraq in order to establish a comprehensive account of the shape and underlying ethical foundations of the SOSS. He finds that “the prime value of [the SOSS] is that it establishes free states within an anarchical society of free states”. This not only includes the norm of non-intervention (ibid: 60, 63), but entails that

When seen as a social whole what is of value in such an anarchy is that within it each sovereign state is entitled both to decide on its own internal constitutional form with regard to its basic structure, legislative system, electoral arrangements and also to pursue its own vision of the good [...]. (ibid: 63)

Returning to the topic of norms, it becomes clear that norms are not necessarily only regulative, that is saying what “ought to be done”, but can also have a constitutive character; norms can also “create new actors, interests or categories” (Finnemore/Sikkink 1998: 891). However, the norm that states have the responsibility to protect and provide security for their people entails both rules and categories: it constitutes the sovereignty of states and simultaneously establishes the rule that states have to intervene if there is a threat to their people or to prevent any kind of threat.

Regarding the topic of this study, Spearin writes that the trend of outsourcing has especially in the USA been “embraced to the point of generating a widespread private presence in what usually is deemed the sovereign preserve of the state: national security” (Spearin 2003: 29). Therefore, and following Krahmman’s notion that governance is induced by changing interpretations of norms (Krahmman 2003: 13), the North-American interpretation of the sovereignty of the US, its ethics and its relation to both the elaborated understanding of sovereignty and to outsourcing military tasks to PMCs are incorporated into this study.

5.4. Representation of Interests

Drawing on the international architecture, there is still one important factor missing. The term “governance” describes a fragmentation of authority, policy coordination by public and semi- or non-public actors, and an opening up to civil society on the part of public administrations (van Kersbergen/van Waarden 2004: 153 et seq.). Additionally, according to Krahmman’s interest dimension, the turn towards governance means that the “heterogeneous and sometimes conflicting” interests of individual (collective) actors are increasingly acknowledged and that it is attempted “to ensure that each actor can pursue them uninhibitedly” (Krahmann 2003: 12, 13). Krahmman considers the dimension of interest to be of secondary importance and the notion that the governance approach opens up ways for directed interest representation on the part of civil society is sparsely approached in the literature on governance in general; most of the literature on governance and civil society approaches governance by societal actors without governments or governance by social actors with government. That is, most of the literature entails either autonomously acting societal actors or the cooperation of governments with civil society in the public interest. Scholte for instance argues that civil society, containing among others academic institutions and pressure groups, can “reduce the democratic deficit that has grown during recent decades in the governance of global relations” (Scholte 2002: 281, 283). It can do so by “giving a voice to stakeholders” (ibid: 293) and increasing “the public accountability” (ibid: 294). The notion that the increasing influence of civil society enhances democracy is supported by other scholars too (Nanz/Steffek 2004: 333). However, governance arrangements may allow respective non-state actors to have greater influence on policymaking than the general public has; for instance via lobbying. As these actors normally represent particular interests, it is questionable as to whether the enforcement of these interests is indeed approved by the whole civil society. This fact is addressed insufficiently by governance approaches.

The notion of potentially self-interested influence by social actors is, however, as outlined, represented by liberalist assumptions which say that domestic (societal) groups and individuals are the most important actors in international affairs and that their interests are transferred to state policy by representative institutions which form a “transmission belt” (Moravcsik 1997: 518). Given that interests that can be enforced the most successfully are represented by the relevant state, “the simplest resulting prediction is that policy is biased in favour of the [...] powerful domestic groups” (ibid: 530). This phenomenon is called rent-seeking and entails that “when powerful domestic groups are able to formulate policy without necessarily providing offsetting gains for society [...], the result is likely to be inefficient” (ibid.). The manner in which domestic interests influence state behaviour in this study follows republican liberalism. At first glance, commercial liberalism also seems to provide explanations, but its structural focus is not applicable to this study. While Moravcsik argues that the “key variable in republican liberalism is the mode of domestic political representation” (Moravcsik 1997: 530), the political system of the US is indeed considered to be comparatively open to particular societal interests. On the one hand, because the parties are relatively weak, policymaking is assumed by non-state think tanks and interest groups. The MIC, for instance, is considered to act as an agenda-setter to a large extent (Peterson 1991: 145). On the other hand, “the US democratic system makes members of Congress seeking re-election particularly attentive to” voices from civil society (EurActiv 1/3/2005, Braml 10/10/2008). The heavy financial component in US election campaigns additionally hints at a dependency of politicians on financial support by followers. As this system opens up ways for societal actors to pursue interest representation, the notion that governance arrangements allow societal actors to participate in decision-making cannot be neglected in a theoretical framework of security governance and a study analysing policies of the US. Hence, the influential and powerful position PMCs (potentially) have and the pursuit of their interests is incorporated into assumptions as to why Blackwater has been deployed.

5.4.1. Summary

The international security architecture is determined by a shift away from traditional central government and towards fragmented governance. Regarding security governance, this has mainly happened in the dimensions of functions, resources and norms. Additionally, there are factors which are related to these dimensions and make governments deploy PMCs, for instance the anticipated cheapness of PMCs. Moreover, as the study pivots around the norm of sovereignty, the North-American interpretation of sovereignty is incorporated in the analysis. Similarly, the assumption of interest enforcement by societal actors is added too.

5.5. Hypotheses

It is important to note that the deployment of PMCs is said to challenge the sovereignty of states which deploy PMCs but that this does not refer to deliberate choices to use PMCs although they compromise the sovereignty of the states but rather to unconscious decisions.

The hypotheses follow the conditions elaborated above. They, therefore, draw on the consideration that the resources provided by PMCs can be cheaper than those provided by governments, that the use of PMCs can avoid troubles and that governments may sometimes have no alternative but to deploy PMCs. However, two more conditions have been elaborated. The first: since this study pivots around the norm of sovereignty the notion that norms are constituted and interpreted intersubjectively has been added to the collection of potential factors. Additionally, as the governance approach entails the fragmentation of authority and the opening up to civil society on the part of governments, and as the MIC has a strong position in the US, the notion that private interests might have played a role has also been incorporated in the body of conditions which might have led to the deployment of Blackwater.

The first hypothesis draws on the assumption that outsourcing security might be more cost-efficient than deploying state soldiers.

Hypothesis 1: "The security services and training tasks in post-invasion Afghanistan and Iraq were accomplished by Blackwater because it was believed that the exercise of these tasks by Blackwater was more cost-efficient than the exercise by the US Army."

The second hypothesis follows the assumption that in deploying PMCs, governments can avoid troubles and difficulties.

Hypothesis 2: "Blackwater instead of US soldiers was deployed as its deployment would allow the US departments and the CIA to avoid troubles and difficulties caused by bureaucratic, democratic or legal procedures; publicity; debates and direct liability which they would have faced if they had deployed state soldiers."

While the second hypothesis refers to a certain purpose the US administration deliberately aims at by deploying PMCs, the next set of hypotheses draws on the assumption that governments in certain conditions may not have an alternative but to deploy or acquiesce to PMCs.

Hypothesis 3a: "The tasks of the US departments and the CIA were executed by Blackwater because the agencies needed special expertise which could be provided by the company."

Hypothesis 3b: "The tasks of the US departments and the CIA were executed by Blackwater because the resources of the US state agencies and the CIA were depleted and could be replaced by resources of the company."

The following hypothesis is based on the same assumption and refers to Afghanistan and Iraq.

Hypothesis 4: "Because Blackwater was associated with the Coalition Provisional Authority in Iraq, the operations of the CIA in Afghanistan and the US departments, the Afghan and Iraqi administrations did not have a say in the deployment and could not decide on the presence of the company."

The fifth hypothesis refers to the powerful and influencing status of the military interests in the USA.

Hypothesis 5: "Blackwater was deployed because its representatives successfully lobbied the US administration and convinced the officials in charge at the US departments and the CIA to deploy the company."

Finally, as the topic of the study pivots around the norm of sovereignty, the last hypothesis seizes the notion of intersubjective perception of norms.

Hypothesis 6: "Blackwater was deployed because sovereignty as interpreted by the US administration allows the deployments of PMCs and questions of sovereignty were not taken into account."

In order to analyse the degree to which these hypotheses correspond with the real course of events, they need to be operationalized according to CPT approach.

5.6. Operationalization according to Causal-Process Tracing

Traditionally, the operationalization of hypotheses is carried out by analysing whether and to what degree indicators, which have been deduced from the hypotheses, correspond to reality. Recall, however, that the “three types of causal-process observation [storylines, smoking guns and confessions] build the empirical basis for a thorough reflection on the question of whether certain causes or configurations should be viewed as [...] conditions for the outcome in the case under investigation” (Blatter/Haverland 2012: 111). Therefore, there are no “score-able” indicators to be found but the research builds on “a cluster of empirical information [which is used to (a)] determine the temporal order in which causal factors work together to produce the outcome of interest, [to (b)] determine the status of these causal factors as individually necessary and jointly sufficient for the outcome in the case under investigation and/or [to (c)] identify and specify the social mechanisms that form the basis for mechanism-based explanations” (ibid: 23). Recall also that the ontological and epistemological foundations of CPT say that there are causations which have to be analysed by scrutinising the empirical information. Therefore, the manner in which the substance of the hypotheses is analysed is finding the plurality of factors which have contributed to the outcome of interest, the deployment of Blackwater, in statements of actors or relevant documents as outlined in the chapter on methodology.

Thus, whether or not the six hypotheses elaborated above hold true will be found out by revealing the causal pathways which have led to the deployments by using all kinds of information. First, the storyline will be explained and then “smoking gun” and “confession” observations will be delineated.

5.7 Relevance of the Research

Aside from the topicality of this study, the research is of theoretical and social relevance.

5.7.1. Theoretical Relevance

According to Lehnert et al. (2007), “theoretical relevance refers to the analytic value a research question adds to the scientific discourse of the sub-discipline” (ibid: 21 et seq.). The analytic value this study generates refers, firstly, to the approach of governance and its “sub-approach” security governance. As previously mentioned, these approaches have been examined extensively regarding their content and claims, but there has hardly been research about the analytic and predictive value of these approaches and they are still considered as vague concepts (Smouts 1998: 81). However, in analysing why the USA engages in security governance arrangements, further knowledge about the governance and security governance approach is created, either in confirming or rejecting the hypotheses or in bringing more conditions to light than the hypotheses contain. That is, the added value consists of an assessment of conditions which potentially have induced the shift from government to governance, for instance successful representation of interests on the part of societal actors following Moravcsik or the factors listed by Prado. This contributes to the development and the analytical and explanatory substance of the approaches.

Secondly, the analytic value this study generates refers to the concept of sovereignty. The suggestion that sovereignty is conditioned and considered as the responsibility to protect and provide (security) for a people is a comparatively new approach and it has not yet been sufficiently analysed how states interpret this perception with regard to their monopoly on force and outsourcing military tasks. The analysis of the interpretation of the North-American administration of sovereignty and the monopoly on force contributes to the knowledge of how these norms are understood and applied. Similarly, this analysis scrutinizes as to whether sovereignty understood as responsibility to protect and provide holds true in the USA.

5.7.2. Social Relevance

Lehnert et al. argue that social relevance draws on whether people are affected by a phenomenon and whether this phenomenon makes a difference, and suggest three questions to analyse social relevance: “who is potentially affected [...] by what?”, “how can the results be evaluated?” and “what advice can be offered?” (Lehnert et al. 2007: 26, 29 et seq.). Regarding the first question, relevant to this study is that the participating states and their peoples are potentially affected by an undermining of their sovereignty. The sovereignty of the US is potentially affected by the outsourcing of the use of force to limitedly accountable actors. The sovereignty of Afghanistan and Iraq is potentially affected due to the invasion of the countries and by the deployment of limitedly accountable armed actors to their countries which deprives them of control of the force executed in their countries – when there is no distinct (inter-) national legal framework governing PMCs, they can hardly be controlled or rendered liable for potential misdeeds they conduct in Afghanistan or Iraq. Furthermore, the sovereignty of the people of the US is potentially undermined as Blackwater did not need a licence or Congress authorisation but was directly contracted by the US departments and the CIA. This deprives the sovereignty of the people of power. As this issue presupposes a democracy and as the question to what extent the sovereignty of the Afghan and Iraqi people is potentially affected by the deployment of PMCs requires an assessment of their sovereignty before the invasion, it exceeds the scope of this study. Moreover, whenever limitedly accountable security actors are deployed, local people are affected in terms of their security; more precisely, by the manner in which the work of the PMCs is performed. Due to the difficulties in controlling PMCs, it cannot be assured that they execute their tasks appropriately. This is especially dangerous in the area of security where actors are armed and potentially pose a risk to the security of the locals. This applies to the people in Afghanistan and Iraq.

The second question of Lehnert et al. concerns the way in which people are potentially affected with regard to established standards, that is to say “why they should care” about certain outcomes or effects (ibid: 30). Lehnert et al. write that “people acknowledge the edge of social relevance if they

‘find the [...] evaluative problems raised by political choices puzzling’” (ibid., citing Barry/Rae 1975: 339). Hence, people might care because they perceive established standards or their features as being violated or impaired.

As the countries are potentially affected by an undermining of their sovereignty and, regarding Afghanistan and Iraq, of their security by the deployment of limitedly accountable armed actors, the standard by which this is evaluated is legitimacy. Regarding the people of the US, this refers to the fact that they should care because Blackwater has operated in the name of their state without being legitimized by the people. The will of the people can here be considered a feature or presupposition of legitimacy. Consequently, the people in Afghanistan and Iraq should care because the actors to which they have been exposed had not been legitimated. Moreover, the people in Afghanistan and Iraq should also be concerned about the quality of the work of Blackwater. This might be a vague standard, but it is the only way to describe the fact that uncontrollable armed actors might pose a risk to the security of the people. As this refers neither to the effectiveness nor to the efficiency of the work but only to the fact of whether or not the actors conduct their tasks in a manner which evokes insecurity or not, the standard of quality is chosen.

Regarding the last question Lehnert et al. pose, this study will suggest that the development of legal norms which govern PMCs has to be strongly encouraged as they need to be made fully accountable. In doing so, the undermining of the sovereignty can be diminished. Additionally, oversight and transparency of government contracting in the US need to be enhanced in order to increase the trustworthiness of PMCs.

6. *The Search for Causal Conditions*

The empirical analysis presents the observation of empirical evidence which led to the deployment of Blackwater. First, the storyline is presented. It shows the “most important structural causal conditions” and “most important steps” of the events which led to the deployment (Blatter/Haverland 2012: 111). Afterwards, the “smoking guns” and “confessions” for the deployment are presented. Recall that “smoking guns” are important pieces of evidence and that they are temporally, spatially or socially close to the outcome. “Confessions” are supposed to “reveal the perceptions, motivations and anticipations of important actors” (ibid: 119).

6.1. *The Storyline*

On 10/9/2001, then US Secretary of Defence Donald Rumsfeld held a speech about the importance of privatisation and liberalisation in the Pentagon (Rumsfeld 10/9/2001). He argued that

just as [the US administration] must transform America’s military capability to meet changing threats, we must transform the way the Department works and what it works on [...] In this period of limited funds, we need every nickel [...] every effort to help [...] transform the US military [...] Many of the skills we most require are also in high demand in the private sector.
(ibid.)

The policies Rumsfeld launched followed neoliberal ideas¹¹, focused on outsourcing and were later called “Rumsfeld Doctrine” (Scahill 2008: 51). Rumsfeld strived to make the military more “agile, lethal, readily deployable” and requiring “a minimum of logistical support” (Rumsfeld 2011: 294). Consequently, he aimed at “just in time hiring” of troops and “has insisted that it makes no sense to keep and pay for a well-trained standing army when the US can purchase every sort of service on an ‘open market’ whenever there is a need for military action” (Schreier/Caparini 2005: 90). The argument was that all military services “can be hired only when needed, and the army can be kept small, and hence inexpensive in terms of manpower” (ibid.). These motives have been written down in the 2001 Quadrennial Defense Review, which said that “only those functions that must be performed by [the Department of Defense] should be kept by the Department of Defense. Any function that can be provided by the private sector is not a core government function.” (US Department of Defence 30/9/2001: 53). Rumsfeld was not the first politician who strived to outsource the military. His predecessor during the first Gulf War and Vice President under George W. Bush, Dick Cheney, engaged several executives from the private military sector when he took office in 1989 and commissioned Brown&Root Services, a subsidiary of the PMC Halliburton, to issue a study on how to privatise the military quickly and how private contractors can support the US military in 1993 (Schreier/Caparini 2005: 90, Yeoman May/June 2003). “Almost overnight, Halliburton would create an industry for itself servicing the US military operations abroad with seemingly infinite profit potential” (Scahill 2008: 52). Remarkably, Cheney became the CEO of Halliburton after he had been Secretary of Defence under George H. Bush and before he became Vice President under George W. Bush (Pelton 2006: 98, 101).

The liberal motives to outsource and privatise the military were complemented by neoconservative ideas. One influential actor which contributed to both idea-sets was the American Enterprise Institute (AEI) “which led the charge for an accelerated privatization of the government and military” (Scahill 2008: 52). Later, the neoconservative and liberal ideas were buttressed by the think tank Project for a New American Century (PNAC), founded in 1997 (ibid.). This is, in its own words, a “non-profit educational organization dedicated to a few fundamental propositions: that American leadership is good both for America and for the world; and that such leadership requires military strength” (Project for a New American Century website (no date)). Many members of the PNAC became part of George W. Bush’s administration; important members have been Rumsfeld, Dick Cheney and Paul Wolfowitz (Scahill 2008: 52, Pelton 2006: 98). The liberal and neoconservative ideas and the focus on the

¹¹ Referring to economic neoliberalism.

military have also been supported by important members of the Bush administration which stem from the MIC, for instance Under Secretary of Defence Aldrige, Army Secretary White and Air Force Secretary Roche (Scahill 2008: 53). Hence, the liberal focus on outsourcing and privatisation and the neoconservative focus on the military “would form the basis of much of the Bush administration’s international agenda” (ibid: 52). Similarly, it is noteworthy that the CEO and founder of Blackwater Erik Prince has always supported the Republican Party with large donations. Noteworthy is also that he has had close ties to the PNAC and its successor, the Council for National Policy, and related Christian conservative circles. Examples of which are Christian Freedom International or the Family Research Council, politically influential religious rights organizations (Institute for Policy Studies 25/3/2013). While many members of these organisations had been, were or became members of the US government, Prince also maintained direct personal contacts with the US administration (ibid., Scahill 2008: 62).

6.1.1. Afghanistan

Shortly after the attacks of 9/11, CIA Director George Tenet revealed that “Osama bin Laden’s al-Qaida network was responsible for the attack” (Rumsfeld 2011: 344) and President Bush launched the WoT. “The abrupt state of war that began on 9/11 had stretched the U.S. government’s resources beyond what could have been realistically anticipated on September 10, 2001” (Pelton 2006: 41). About two weeks before the deployment of US troops, on 28/9/2001, the CIA deployed special forces, team “Jawbreaker”, to Afghanistan for covert operations (Scahill 2008: 337 et seq.). Remarkably, “the covert operations [...] relied heavily on private contractors” (ibid: 338) – about seven months later, in April 2002, Blackwater was commissioned to protect the CIA station in Kabul¹².

As the contract, a “black” contract¹³, which Blackwater signed with the CIA in 2001/2002 was an “‘urgent and compelling’ necessity [...], all the competitive bidding requirements” were eliminated and the “contract went straight to Blackwater” (Pelton 2006: 37). After expiry of six months after entering the contract Blackwater got subsequent “black” contracts (ibid: 40 et seq.). In April 2003, Blackwater Aviation was founded and the company started to provide “aviation and logistical solutions” for its customers (Scahill 2008: 323 et seq.). This allowed Blackwater to expand its services and opportunities to get contracts. In the same year, Blackwater was instructed by the CIA to join the CIA’s targeted killing programme in Afghanistan in order to assassinate al-Qaeda functionaries. Similarly, Blackwater participated in the CIA’s “snatch and grab” operations, raids against suspects, between 2004 and 2006 (Risen/Mazzetti 10/12/2009).

In January 2009, Barack Obama became President of the USA and although he had said that the US “cannot win a fight for hearts and minds when we outsource critical missions to unaccountable contractors”, the numbers of PMCs in Afghanistan has increased tremendously in the first months of his first presidential term (Baram 18/3/2013). On 17/8/2010, Afghan President Hamid Karzai issued a decree saying that US PMCs were to leave Afghanistan within four months (Tait 17/8/2010). Not only was the decree not realised but the Pentagon also awarded Blackwater a Counter Narco-Terrorism Program Office (CNTPO) contract to train the Afghan police – a task which Blackwater had ostensibly already assumed previously (Boone 7/3/2011, US Congress House Committee on Armed Service 18/9/2002: 8). This contract form allowed the Pentagon to avoid a really open bidding (Weinberger 2/9/2011). Shortly before Blackwater was awarded the CNTPO contract, it became known that Blackwater had used a shell company, Paravant, to obtain contracts in Afghanistan and to obtain weapons illegally (US Committee for Armed Services United States Senate 24/2/2010: 36 et seq.). In his investigation of this, Ackerman finds that in the general “contracting process [...] it is remarkably difficult to deny a contract to [any] security company [...] Specifically, an obscure

¹² The protection tasks executed by Blackwater have exceeded the common understanding of security services regarding property or persons and rather included the security of whole areas than individuals or single buildings (Scahill 2008: 133 et seq., United States Department of State /Special Inspector General for Iraq Reconstruction 6/2009: 7, 16 et seq.).

¹³ “Black” contracts are contracts with the CIA which are not public (Rozen 10/12/2005).

contracting rule known as Federal Acquisition Regulation 9.406-2 prevents an acquisition official from banning a company from being awarded a contract unless the company has been formally ‘debarred’ from eligibility” (Ackermann 8/3/2010). That Blackwater was not ‘debarred’ although having provoked many scandals, such as recently in Iraq, is a noteworthy feature of the storyline.

While Blackwater “has won hundreds of millions of dollars in security, counter-narcotics and training contracts for the State Department, Defense Department and the CIA” since it was deployed to Afghanistan (Scahill 3/5/2010), Karzai issued a second decree saying that PMCs had to lay down their work in Afghanistan by March 2012. However, Blackwater was ascribed the status of a favoured company which will be preferred in taking over contracts (Boone 7/3/2011). Additionally, although Karzai “has railed for years against the large number of guns-for-hire in Afghanistan”, the deadline for PMCs to lay down their work was prolonged for three months in March 2012 (Vogt 18/3/2012). However, in December 2012, Blackwater was not only still in Afghanistan but also got a new contract to provide, maintain and secure a new headquarter for the US Special Forces in Afghanistan and to “provide life support services” (Ackermann 5/12/2012). It is remarkable that even though the majority of the US forces is going to withdraw in 2014, the contract of Blackwater terminates in May 2015 (ibid.). This move allows to avoid a security vacuum when the majority of official security forces leaves and allows President Obama to fulfil the will of his voters – “80% of registered voters support the president's policy to end the war in Afghanistan” (Tapper 13/2/2013).

6.1.2. Iraq

Long before the attacks of 9/11, the US administration, supported by the PNAC, wanted to disempower Saddam Hussein, the President of Iraq (Rumsfeld 2011: 417 et seq., Pelton 2006: 98). He was perceived as a “repressive and vicious” dictator who was supposed to possess WMDs and the US administration assumed that Hussein was going to use them in terrorist actions or give them to terrorist networks (US Congress House Committee on Armed Services 18/9/2002). On 18/3/2003, President Bush gave Hussein an ultimatum to leave his country and as Hussein stayed on, two days later Operation Iraqi Freedom (OIF) was dispatched to Iraq in order to wage a pre-emptive war against the perceived threats coming from Iraq (Wilzewski 2004: 26). After the fall of Hussein’s regime, the US and its “coalition of the willing” established the Coalition Provisional Authority (CPA), an interim-government, in Iraq. Its first head General Garner was soon replaced by Ambassador Paul Bremer who arrived on 12/5/2003 (Scahill 2008: 125,128). “Bremer’s insistence on moving around the country meant that he needed” more extensive security services than Garner had had (Pelton 2006: 110). Consequently, “Blackwater was tasked to come up with a unique solution using funds from an existing DynCorp State Department contract” (ibid.). DynCorp had been instructed to protect officials from the DS but subcontracted the task in Iraq to Blackwater. But on 24/8/2003, Blackwater received a separate, single source/no-bid contract to protect Bremer and his colleagues of the CAP worth \$21.3/\$27.7 million¹⁴ (Pelton 2006: 111, Scahill 2008: 133, United States Department of State/Special Inspector General for Iraq Reconstruction 6/2009: 1). A month later, Blackwater registered a new division called Blackwater Security Consulting LLC in order to provide “qualified and trained Protective Security Specialists (PSS) to the US Department of State, Bureau of Diplomatic Security” (Scahill 2008: 134, citing the Blackwater webpage). Shortly before he left Iraq on 24/6/2004, Bremer issued a decree to free PMCs from Iraqi prosecution (Scahill 2008: 56). This is noteworthy as it was shortly after the Fallujah ambush and gave the PMCs in Iraq freedom of action. Simultaneously, Iraq was handed over partial sovereignty and Blackwater was given a one year contract from the DS. This contract¹⁵ and two of three included task orders were “awarded to Blackwater through standard competitive processes” (United States Department of State/Special Inspector General for Iraq Reconstruction 6/2009: 2). In summer 2005, Blackwater was “incorporated into the World-wide Protective Services contract” system of the DS and got the next contract for security services in Iraq; World-wide Protective Services (WPPS) II (US House of Representatives Committee on Oversight

¹⁴ Pelton and Scahill issue different figures: Pelton states \$21.3 million and Scahill \$27.7 million.

Recall also that these security tasks exceeded traditional security services.

¹⁵ For the task orders refer to appendix III.

and Government Reform 2/10/2007: 143). Blackwater was awarded certain tasks of the WPPS II in a competitive manner and others in a non-competitive manner¹⁶. Moreover, the task orders were awarded for different time frames, the longest of which ended in May 2009 (United States Department of State/Special Inspector General for Iraq Reconstruction 6/2009: 6, 7).

In April 2008, the US administration considered extending task order six of WPPS II which had been assumed by Blackwater and was “to provide personal protective services in Baghdad” (US Department of State 4/4/2008). Note that this was roughly half a year after the Nisour Square shooting. In January 2009, The New York Times reported that Iraq had refused to give Blackwater a new licence and that the Iraqi administration enforced in new Status-of-Forces negotiations that Blackwater was to lose its immunity granted by Bremer and sought to expel the company from the country (Risen/Williams, 29/1/2009; Londono/Mizher 29/1/2009). Subsequently, the operating PMCs in Iraq had to issue proposals about their work to the DS and only DynCorp and Triple Canopy, two other PMCs operating in Iraq, issued new contract proposals (Risen/Williams, 29/1/2009). Nevertheless, on 2/9/2009, USA Today reported that Blackwater’s contract¹⁷ had been extended (USA Today 2/9/2009). In August 2009, The New York Times reported that Blackwater was operating in Iraq with a contract that was extended until 2011(Landler/Mazzetti 21/8/2009). Already in October 2009, the WPPS III was announced by the Office of Acquisitions of the DS. Academi/Blackwater was not on the list of the 143 bidders. However, the listed company called Kaseman LLC has the same address as the Academi headquarter. It is therefore highly probable that Kasemann LLC is one of the shell companies¹⁸ of Academi/Blackwater and that the company did participate in the bidding (US Department of State Office of Acquisitions 2010, Academi 2013). It should also be noted that the list of company(-ies) which won the contract is not accessible, yet Kaseman LLC states on its website that it operates in Iraq as well as Afghanistan and in June 2010, Blackwater was allegedly awarded a new WPPS contract (KS International 2012, Scahill 24/6/2010, Ackermann 21/6/2010). Hence, it is likely that Blackwater works under the WPPS III contract¹⁹.

6.1.3. The Perception of Sovereignty

Regarding structural conditions, also the North-American perception of sovereignty is of importance for the topic of this study. The perception of sovereignty of the occupied countries has to be addressed as well. Recall that the applied norm of sovereignty presupposes the state monopoly on force. The second amendment of the constitution of the US, which says that “a well regulated Militia being necessary to the security of a free state, the right of the people to keep and bear Arms shall not be infringed” (The Constitution of the United States of America: Analysis, and Interpretation 1992) and the comparatively encompassing rights of US citizens to bear arms allow the inference that the state monopoly on force is interpreted comparatively broadly within the US (Horwitz 2/5/2008). Additionally, the governmental discourse in the USA has changed from the perception that the “use of force” belongs to the inherent tasks of a sovereign state towards the current perception “that the state monopoly on violence refers to the control of the legitimate use of armed force, not its actual exercise” (Krahmann 2013: 65). This is substantiated by the international discourse on a legal framework for PMCs. This discourse shows, firstly, that PMCs are getting legally acknowledged and thus the traditional understanding of the monopoly on force might have weakened; but it shows, secondly, that states seek to gain control over private force. The inference is that states rather value the control than the exercise of force and that the state monopoly on force is (nowadays) potentially understood as state monopoly on the control of force. The crucial difference is that when force is delegated, the state has, following principal-agent approaches, to set up sufficient “monitoring devices” to be able to supervise PMCs to which it has delegated the force and to make sure that the force is implemented according to its provisions (Hix/Høyland 2011: 24).

¹⁶ For the task orders refer to the appendix IV.

¹⁷ This potentially only applied to certain task orders of the WPPS II.

¹⁸ Risen and Mazzetti counted 30 shell companies of Blackwater (Risen/Mazzetti 3/9/2010).

¹⁹ According to the Quarterly Contractor Census Reports of the Office of the Deputy Assistant Secretary of Defence, there are still PMCs in Iraq. Whether Blackwater is among them cannot be determined.

Regarding the norm of sovereignty, Douglas Feith, former Undersecretary for Defense for Policy, argued that the rule of sovereignty entailing that a state can do whatever it wants within its borders does not apply when a state commits human right violations or poses a danger by possessing WMD's (Feith 25/8/2002). Rumsfeld referred to Feith and added that the sovereignty of a state entails the duty of states to be "responsible for the governance of their countries" which includes dealing with threats and that states need to be held accountable for their performance (Rumsfeld 2011: 423, Rumsfeld in EUobserver.com 12/6/2003). In 2005, Feith elaborated the "selective sovereignty thesis". He said:

The United States strengthens its national security when it promotes a well-ordered world of sovereign states: a world in which states respect one another's rights to choose how they want to live; a world in which states do not commit aggression and have governments that can and do control their own territory; a world in which states have governments that are responsible and obey. [...] [However,] respect for sovereignty [does not] require us to ignore the depredations of tyrannical regimes [...].

The world has decided that sovereignty shouldn't protect a government perpetrating large-scale crimes against humanity within its own borders. Should governments with troubling records of aggression, support for terrorism, human rights abuses and the like be allowed to invoke sovereign rights to protect their development of catastrophic weapons that threaten the sovereign rights of others in the world? This is a question for which there is no simple, objective answer [...] (Feith 17/2/2005)

In their overview of North-American academic literature on sovereignty after the attacks of 9/11 Sinclair and Byers deduce the conviction that the "right of self-defence can be used to limit sovereignty at the same time that it is deployed to protect it" (Sinclair/Byers 2007: 325). As the limited sovereignty is that of the other states to which the US "deploys" its right to defend its sovereignty, this corresponds with the "selective sovereignty" thesis. Sinclair and Byers also find that there are distinct features of the North-American identity which determine the specific North-American conception of sovereignty. The most important feature is the strong popular sovereignty in the US, which, similar to the finding of Barkin and Cronin, circumscribes the fact that "the international system has already moved toward human values as its organising principle" (ibid: 319). The features conclude "on the one hand, a self-belief, [...] and [...] a belief that the United States can and should intervene" and on the other hand an "isolationist tendency and the belief in self-government to generate a belief that American sovereignty may never be compromised" (ibid: 337, 338). Consequently, the North-American conception of the sovereignty of the US is of a "bifurcated" nature; statist, privileging the integrity and "political independence of governments", and "concerned with protecting the United States against outside influences" on the one hand but popular, privileging the right of peoples rather than governments and "concerned with limiting the sovereignty of other countries" on the other (ibid: 318, 338). These "two conceptions" are based on the belief that democracy and consent make a state legitimate and sovereign and combine to one "conception of sovereignty – one which elevates the [US] above other countries and seeks to protect it against outside influences while concurrently maximising its ability to intervene overseas" (ibid: 318, 323, 324).

In analysing an appraisal by the Iraqi administration of the war in Iraq, Frost finds that the Iraqis clearly support the non-intervention norm (Frost 2009: 55). This is substantiated by the notion that the Iraqi sovereignty has been tied to the withdrawal of all soldiers working for the US, regular state soldiers and hired ones. This was publically advocated by Prime Minister al-Maliki who additionally argued that incidents evoked by PMCs such as Blackwater undermine the responsibility of the Iraqi government towards its citizens (Schmidt/Schmitt 15/1/2012, Miller 24/9/2007). The Afghan sovereignty has been considered to be undermined by the presence of the occupying forces and PMCs too (Sieff 16/3/2013, The Islamic Peace and Reform Movement of Afghanistan 8/2/2011). The presence of foreign forces "is an affront to the claim of sovereignty in Afghanistan and a mockery of democracy" because they are not responsive to Afghan law and because they build, according to Karzai, a "parallel security system that challenges the Afghan security forces" and deprive the Afghan government from the possibility to assume responsibility for the security in the country (The Islamic

Peace and Reform Movement of Afghanistan 8/2/2011, Ure 30/10/2010, Harooni 11/12/2011). These perceptions show a strong emphasis on the norm of non-intervention and responsibility as features of sovereignty.

6.2. *Smoking Guns and Confessions*

In order to conduct a closer analysis of the conditions which led to the deployment of Blackwater it is important to recall that Blackwater was deployed by the CIA and by US departments. Therefore, Blackwater did not need a licence but was contracted.

6.2.1. *Afghanistan*

Blackwater was first deployed in the course of the WoT by the CIA for security services in Afghanistan. Although the contracts of the CIA and related documents are secret, there is relevant information. One prominent piece of evidence why Blackwater has been deployed is that the founder and CEO of Blackwater, Prince, has had personal connections to the CIA management, especially to A.B. Krongard, the former executive director of the CIA (Scahill 2008: 107 et seq.). "It's not clear exactly what the actual connection was between Prince and Krongard. Some have alleged that Krongard knew Prince's father. In a brief telephone interview, Krongard would only say he was 'familiar' with Prince and Blackwater. A former Blackwater executive, however, asserted 'I know that Erik and Krongard were good buddies'" (ibid: 109). In an interview Krongard said that

It was Blackwater's offering and not his connection to Prince that led to the company landing the contract, and that he talked to Prince about the contract but wasn't positive about who called who [...]. He said that someone else was responsible for actually signing off on the CIA contract. 'Blackwater got a contract because they were the first people that could get people on the ground'. (Krongard in Scahill 2008: 109).

But Krongard also said that he "played [...] a routine role as an intermediary in helping Blackwater get its first big security contract from the agency for guards in Afghanistan in 2002" (Shane 17/11/2007). Additionally, "a retired intelligence officer 'intimately familiar with the assassination program' [of the CIA in Afghanistan] told the Washington Post, 'Outsourcing gave the agency more protection in case something went wrong'" (Scahill 20/8/2009). It can be inferred that while the CIA turned to PMCs to avoid liability, Blackwater was given the contract mainly due to people-to-people contacts.

In September 2002, Cofer Black, then former chief of the CIA Counterterrorism Center and current DS's Ambassador-at-Large for Counter-Terrorism (Scahill 2008: 116 et seq.), praised the success of the targeted killing operation of the CIA in which Blackwater had participated (Joint House/Senate Intelligence Committee Hearing 26/9/2002, Scahill 20/8/2009). Later, Black became Vice Chairman of Blackwater (Scahill 2008: 216, 217). Black has been one of many former CIA executives to have been hired by Blackwater for important positions, especially for the affiliate Total Intelligence Solutions. Among them was also Enrique Prado, former senior executive officer in the CIA Directorate of Operations (Scahill 2008: 455, Lake 14/3/2013). He is said to have negotiated the deal under which the "CIA handed over its hit squad operations to Blackwater [...] as a way 'to kill people with precision, without getting caught.'" (Beckhusen 27/6/2012 citing Wright 2012). Scahill finds that

the coordinator of Blackwater's covert CIA business, former CIA paramilitary officer Enrique "Ric" Prado, set up a global network of foreign operatives, offering their 'deniability' as a 'big plus' for potential Blackwater customers. [...] Prado and Prince built up a network of such foreigners while Blackwater was at the center of the CIA's assassination program. [...] A former senior CIA official said the benefit of using Blackwater's foreign operatives in CIA operations was that 'you wouldn't want to have American fingerprints on it.' (Scahill 15/9/2010)

While also A.B. Krongard later joined Blackwater, he became a member of the board in 2007, Representative Schakowsky, member of the House Intelligence Committee, declared:

‘What we know now [...] is that Blackwater was part of the highest level, the innermost circle strategizing and exercising strategy within the Bush administration²⁰ [...]. Prince operated at the highest and most secret level of the government [...]. There was absolutely no space whatsoever between the Bush administration and Blackwater.’

(Schakowsky in Scahill 20/8/2009)

Furthermore, a fifteen-year-long trial against Blackwater, which collapsed in February 2013, revealed close ties between the Agency and the company. One of the trial documents was a list of CIA officers “with knowledge of Blackwater’s work” (Lake 14/3/2013). One of the names mentioned “in the document is ‘Erik P’—with the remaining letters whited out” (ibid.). It is also reported in the trial documents that “the CIA routinely used Blackwater in missions throughout the world” (ibid.).

The aforementioned pieces of evidence do not establish clear-cut “smoking gun” observations and their significance may be vague. This is due to the lack of research conducted on PMCs in Afghanistan and the secrecy of CIA contracts. However, the relation between Blackwater or Prince and the CIA is identified as being crucial to the realisation of the contracts between the company and the Agency (Lake 14/3/2013, Scahill 2008: 107 et seq., Pelton 2006: 37).

Regarding the formation of the relationship between Blackwater and the CIA, retired Congressman Pete Hoekstra said “You have to remember where the CIA was after 9/11 [...]. They were gutted in the 1990s [...]. They were looking for skills and capabilities, and they had to go to outside contractors like Blackwater to make sure they could accomplish their mission” (Hoekstra in Lake 14/3/2013). Similarly, Prince told journalist Eli Lake that “Blackwater’s work with the CIA began when we provided specialized instructors and facilities that the Agency lacked. [...] the company became a virtual extension of the CIA because we were asked time and again to carry out dangerous missions, which the Agency either could not or would not do in-house” (ibid.).

The contract for which Blackwater used its shell company Paravant came into being in autumn 2008 as subcontract with Raytheon, an armaments group, and included weapon training for the Afghan army (US Congress Committee on Armed Services United States Senate 24/2/2010: 1 et seq.). According to “former Paravant Vice President Brian McCracken [...] Paravant was created [...] to avoid the ‘baggage’ associated with the Blackwater name” (ibid: 2). Regarding the reason why Blackwater/Paravant got the contract, Steven Ograyensek, Contracting Officer, U.S. Army Program Executive Office, said “when we awarded the contract, we were aware that Raytheon was going to subcontract this work to Paravant” but that they were not aware that Paravant, which won the contract in a bidding process, belonged to Blackwater. While Brian McCracken, Afghanistan Country Manager of Raytheon and former Vice President of Paravant, said he allowed Blackwater to assume the tasks as he trusted the company (ibid: 36), it can be inferred that the US administration, or the contracting office of the army, agreed to the outsourcing but not necessarily to the outsourcing to Blackwater.

The contract of the CNTPO, a subdivision of the Army’s Space and Missile Defense Command governed by the Pentagon, which was awarded to Blackwater in 2010 raised issues (Ackermann 8/3/2010). “DynCorp was the incumbent on the contract, which at the time was being handled by the DS. But the Pentagon, newly in charge of the police training, wanted to use CNTPO” as it allowed the DoD “to award work to five pre-qualified companies. Since DynCorp wasn’t among those five companies, it couldn’t even compete for the work it was already performing.” (Weinberger 2/9/2011). Additionally,

²⁰ Schakowsky speaks about the US administration but in the interview she refers to US departments and the CIA.

[the CNTPO's] existing relationships with the five security contractors meant that it could rapidly award a bid for a mission identified by the military as vital to the U.S. war effort [...] 'If the government has an immediate need, it could conduct a limited competition with vendors with proven capabilities' to meet the contract requirements, Amey²¹ said. Gen. Stanley McChrystal, the commander of U.S. forces in Afghanistan, has identified that need as immediate. 'There's a shortage of trainers,' McChrystal said.

(Ackermann 25/3/2010)

Hence, the contracting was handed over to CNTPO as it was able to arrange contracts quickly for urgent needs and Blackwater could satisfy the relevant urgent need. The ruling of the US Government Accountability Office (GAO) after the protest of DynCorp and Senator Carl Levin against the handover was that the Pentagon had to allow new biddings (Ackerman 15/3/2010, GAO 15/3/2010). In June 2010, however, Blackwater received a \$100 million contract from the CIA and a \$120 million contract from the DS for security services in Afghanistan (Scahill 24/6/2010, Ackermann 21/6/2010). The contract with the DS allegedly was a Worldwide Personal Protective Security (WPPS) contract (Ackermann 28/4/2010). This is salient as Blackwater had already operated under the WPPS system in Iraq but is actually not on the list of the bidders for WPPS III in 2010. But it obviously did bid on it, potentially with a shell company. Noteworthy is the statement Senator Richard Burr made in a hearing about the usage of PMCs: "the truth is that our use of contractors means that our assets can be used in the fight" (US Congress Committee on Armed Services United States Senate 24/2/2010: 28). Additionally, regarding the new CIA contract, director Panetta justified the commissioning of Blackwater in saying:

I have to tell you that in the war zone, we continue to have needs for security [...]. Unfortunately, there are a few companies that provide that kind of security. The [DS] relies on them, we rely on them to a certain extent [...] so we bid out some of those contracts. [Blackwater] provided a bid that underbid everyone else by about \$26 million. And a panel that we had said that they can do the job, that they have shaped up their act. So there really was not much choice but to accept that contract [...].

(Panetta in Harris 27/6/2010)

Scahill argues that "Panetta speaks as though his hands are simply tied up and that if Blackwater comes in with a lower bid than any other company, there's nothing he can do" although he potentially is able to do something (Scahill 28/6/2010).

In 2010, the Afghan Ministry of Foreign Affairs refused to give visas to PMCs, and President Karzai issued a decree saying that US PMCs were to leave Afghanistan within four months' time. However, "spokesmen for the American-led NATO force in Kabul and officials in Washington [...] said such a move would depend on the ability of the Afghan Army and the police to replace private guards" (Filkins/Scane 16/8/2010). Consequently, the deployment of Blackwater was extended. The reason(s) why Karzai came up with this decree are believed to be Karzai's aim to gain popularity in Afghanistan by fighting unpopular PMCs (ibid.). But "as part of a complex new transition strategy" and a second decree of Karzai, the Afghan government prolonged that deadline until 21/3/2012. Additionally, the deployment of Blackwater was extended again. Moreover, "according to a list [...], 11 companies operating in Afghanistan that have a good reputation with [Afghan] government officials will enjoy favoured status in taking over contracts. [...] [Blackwater] is included in that group despite being [...] notorious for its activities in Afghanistan" (Boone 7/3/2011). However, according to a "western diplomat", "Karzai is doing what the Americans are telling him to do because he has no choice" (Boone 7/3/2011 citing the diplomat). "Afghan officials are acutely aware that without a bridging agreement billions of US aid dollars could be threatened by [General Petraeus's] forthcoming testimony to the US Congress on the security situation in Afghanistan" (ibid.). Hence, the Afghan administration did not really have a say in the matter.

²¹ General Counsel for the Project on Government Oversight Scott Arney.

Finally, it is significant that at roughly the same time Blackwater was given the new CIA contract and the suspected WPPS III contract in 2010, Strobel et al. revealed that “the U.S. government and [Blackwater] are negotiating a multimillion-dollar fine to settle allegations that Blackwater violated U.S. export control regulations” by smuggling weapons to Sudan, Afghanistan and Iraq (Strobel et al. 27/6/2010, Risen 20/8/2010, BBCNews 24/8/2010) - a piece of evidence which allows further inferences. Namely, that the company could “have been suspended from doing business with the U.S. government, and a conviction could have brought debarment from all government contracts, including providing guard services for the CIA and [DS] in war zones” (ibid.), something the US administration did not want to happen. The “State Department [...] dealt with the violations as an administrative matter, allowing the firm to avoid criminal charges” (Risen 20/8/2010). But why the DS did not have Blackwater face criminal charges “remains contentious [...]. The U.S. official close to the case [...] indicated that there are differences over whether there's sufficient evidence to support a successful prosecution. Moreover, he said, Xe has improved its export control practices” (Strobel et al. 27/6/2010). Additionally, the DS “said it was satisfied that XE Services had taken the necessary steps to resolve these violations. XE Services has replaced senior management and put in place effective compliance measures which will mean that it will not be barred from bidding for government contracts” (BBCNews 24/8/2010).

6.2.2. Iraq

The purpose of the deployment of Blackwater to Iraq has been the protection of US personnel, initially Ambassador and head of the CPA Bremer. Bremer's first order, issued on 16/5/2003, included the dismissal of all public sector employees who had been members of the Ba'ath Party; the “De-Ba'athification” (Coalition Provisional Authority (Ambassador Bremer) 16/5/2003). Consequently, Bremer had to face massive upheavals of newly unemployed Iraqis and a decrease of security in the country. As this was enforced by Bremer's second order which included the dissolution of Iraq's security institutions, the need for added security services emerged (ibid. 23/8/2003, Scahill 2008: 133). This was potentially intensified by the fact that order number two made many armour bearers unemployed who subsequently participated in the upheavals. The US Secret Service scrutinised the situation in Iraq and concluded that it was so dangerous, that Bremer required special protection. Thus, PMCs were hired. On 28/8/2003, Blackwater received a sole-source contract for “security guards [...] for Ambassador Bremer” by the Defense Contract Management Agency (Special Inspector General for Iraq Reconstruction 7/2004: Appendix J). However, the CEO of Blackwater, Prince, indicated in a hearing that his company was in fact working for the CPA (US House of Representatives Committee on Oversight and Government Reform 2/10/2007: 66).

It is interesting to note, that the chief of Bremer's Blackwater security unit, Frank Gallagher, and Bremer already knew each other as both had worked for Henry Kissinger (Bremer/McConnell 2006: 152). Moreover, Bremer and Prince are also said to have known each other previously (Institute for Policy Studies 25/3/2013, van Heuvelen 2/10/2007). Hence, Blackwater might have been awarded the contracts via these connections.

In May 2004, Rumsfeld asked the head of the Joint Chiefs of Staff General Myers to assess whether the “force levels” in Iraq are “appropriate” with special attention given to the availability of forces (Rumsfeld 21/4/2004: 1 et seq.). General Meyer answered that “US-CENTCOM²² believes forces in theater are adequate to perform the current tasks” and that “if the security situation in Iraq deteriorates, additional forces could be committed for a short time period. These forces would most likely come from the United States via the active components” but “strategically there is risk to [...] US ability to react to other global crises without significant dwell time violations” (Myers 13/7/2004: 1, Myers 17/6/2004: 10). So there was, due to the lack of staff a problem with the flexibility of the

²² United States Central Command (US-CENTCOM) “is one of 9 combatant commands in the United States military” whose “area of responsibility (AOR), a specific geographic region of the world where the combatant commanders may plan and conduct operations”, which encompasses among others Afghanistan, Iraq, Pakistan and Bahrain (US CENTCOM 2013).

army. Moreover, research by the National Defense University revealed that “the decision to invade Iraq with minimum forces left the United States with too few troops in-theater to deal with the disorder that resulted from the removal of Saddam” (Hammes November 2010). Additionally, US Ambassador to Iraq Ryan Crocker stated: “there is simply no way at all that the State Department's Bureau of Diplomatic Security could ever have enough full-time personnel to staff the security function in Iraq [...]. There is no alternative except through contracts” (Crocker in Parker 19/9/2007). Hence “it is understandable that the immediate, unanticipated need for large numbers of logistics and security personnel, the shortage of such troops on active duty [...] caused the Pentagon to turn to contractors to fill the immediate operational needs” (Hammes November 2010). “There are currently numerous important functions that the U.S. Government is incapable of performing without contractor support” (ibid.). The research of the National Defense University concludes:

Contractors provide the ability to initiate and sustain long-term conflicts without the political effort necessary to convince the American people a war is worth fighting. Thus, the United States can enter a war with less effort to build popular consensus. [...] Both proponents and opponents admit that without contractors, the United States would have required much greater mobilization efforts [...]. The use of contractors allowed us to conduct both wars with much less domestic political debate.

(Hammes November 2010)

The outsourcing to PMCs in this case has obviously had two reasons. The first is that due to shortages in troops and resources, the US army was not able to cope with the insecure situation in Iraq and needed added support to successfully secure the territory and/or protect themselves. The second reason is that the US administration can avoid negative political feedback in using PMCs, i.e. in form of losses at the polls by deploying PMCs. This is because deployments of PMCs by the US are based on contracts with individual departments and do neither need authorisation by Congress, as it normally is with state soldiers, nor evoke public debate – the deployment of PMCs happens without the mobilization of governmental resources and thus arouse less public interest (Johnson 24/1/2013, Singer 2001/2002: 218).

After Blackwater's first contract ended in June 2004, it received a personal protection contract from the DS. Additionally, it won immunity from Iraqi law since, as Prince put it, no foreigner would get a fair trial under Iraqi law (US House of Representatives Committee on Oversight and Government Reform 2/10/2007: 97). The reason why the DS turned to private contractors was that “the DoD told it on short notice that it would have to assume responsibility for protecting [CPA] personnel in Iraq” (United States DS/Special Inspector General for Iraq Reconstruction 6/2009: 5) and that, as Adam Ereli, spokesman of the DS, said “there's a need for security that goes beyond what employees of the U.S. Government can provide and we go to private companies to offer that” (Ereli 21/4/2005). Furthermore, William Moser, DS Deputy Assistant Secretary for Logistics Management, explained in a hearing on contracting in counterinsurgency on 2/10/2007:

In 2004, as the U.S. Government made the transition from the Coalition Provisional Authority to a U.S. embassy presence, we decided to do a sole-source contract for Blackwater to provide the personal security services that Blackwater provides. That was the only time that this contract has been sole-sourced in the [DS]. The reason we did that was for urgent, compelling reasons [...]. We were under a very, very urgent situation to make that transition. We had to make an effective transition and provide the security services, so that the embassy could get up and running. [...] Then the next year, in 2005, this contract was incorporated into the World-wide Protective Services Contract, and it was competitively bid and awarded.

(US House of Representatives Committee on Oversight and Government Reform 2/10/2007: 143).

In fact, Blackwater was given three task orders under this second contract from 2004 onwards, two of which were awarded by competition and one as single source²³. In 2009, the Audit of Blackwater

²³ For the task orders refer to appendix III.

Contract and Task Orders for Worldwide Personal Protective Services in Iraq approved the urgent reasons for the use of PMCs in 2004 and added that Blackwater received the single-source task order legitimately because it had already been familiar with the local conditions due to its deployment from 2003 until 2004 (United States State Department/Special Inspector General for Iraq Reconstruction 6/2009: 5).

In 2005, Blackwater won the Worldwide Personal Protective Security (WPPS) contract of the Bureau of Diplomatic Security of the DS, WPPS II, which was again split up in task orders. According to the Audit of Blackwater Contract and Task Orders for Worldwide Personal Protective Services in Iraq, Blackwater was given four task orders²⁴. The audit reports that task order number eight was legitimately awarded as single source as Blackwater was familiar with the local conditions and as the tasks were similar to task order number six which Blackwater had won in the bidding together with the other task orders (United States DS/Special Inspector General for Iraq Reconstruction 6/2009: 14 et seq.).

Following the Nisour Square shooting on 16/9/2007, on 2/10/2007, the US Committee on Oversight and Government Reform held a hearing about outsourcing military tasks. Blackwater was used as an example and the statements of the participants provide insight into why PMCs, Blackwater in particular, have been used (US House of Representatives Committee on Oversight and Government Reform 2/10/2007: 2). Exemplary statements from Congressmen Danny Davis, John Tierney and Patrick McHenry revealed on the one hand, that “contractors offer invaluable surge capacity and contingent capabilities Federal agencies can’t afford to keep in-house”, and on the other hand that the Iraqis are offended by the presence of the contractors, that the outsourcing of security tasks allows the US government not to pay any political price for the deployment as, since deaths of private persons are not published, the official number of casualties can be held low²⁵ (ibid: 13 et seq.).

Crucial for this study is the question Congresswoman Carolyn Maloney asked in the course of the hearing:

Why are we using this service, contracting out, privatizing our military to an organization that has been aggressive and, I would say in some cases, reckless in the handling of their duties?
(ibid: 19).

The hearing did not come to a proper conclusion but the transcript of the hearing allows inferences. They can, for instance, be drawn from the questioning²⁶ of Prince regarding the contracts under which Blackwater worked. In the course of this questioning, Congressman Dennis Kucinich stated that the first contract Blackwater won for security services in Iraq was awarded by Ambassador Bremer although the contract partner was the Defense Contract Management Agency of the Pentagon. This is noteworthy as the deployment might have been a personal decision by Bremer, the head of the CPA and alleged acquaintance of Prince, and the Agency might have only been the official contract partner.

Another conversation²⁷ that took place during this hearing revealed that contractors are considered to be a cheap alternative but in fact seem to produce more financial and immaterial costs and problems with the Iraqis. It also disclosed that the personal protective services are conducted by contractors as US soldiers are not trained for such tasks. The question from Chairman Henry Waxman if the employees of PMCs and Blackwater in particular receive special training as they are actually recruited from the military remained unanswered by Prince. However, it can be discerned from other conversations in the hearing that they receive special training. The factors that additionally permeated the hearing are the high fees Blackwater charges the US administration and the high wages Blackwater

²⁴ For the task orders refer to appendix IV.

²⁵ For the excerpts refer to appendix V.

²⁶ For the transcript refer to appendix VI.

²⁷ For the transcript refer to appendix VII.

employees receive (US House of Representatives Committee on Oversight and Government Reform 2/10/2007: 89). Many US state soldiers have even changed from the army to Blackwater because of the high wages the company pays (CNN.com 2/4/2002). At this point it is important to mention that PMCs in general charge the US administration high fees, the company for Halliburton, for instance, is convicted of having overcharged the US administration too after Cheney had presided the company (Barstow et al. 19/4/2004, CBS News 5/12/2007).

Half a year after the hearing, the US Assistant Secretary of State for Diplomatic Security, Gregory Starr, said that the Federal Bureau of Investigation (FBI) was investigating the Nisour Square shooting and that it has been discussed whether the contract with Blackwater can be extended as it is not clear whether “the continued services of Blackwater are consistent with the overall U.S. mission in Iraq” (US Department of State 4/4/2008). Nevertheless, Starr said that he had requested an extension of the contract and thinks that Blackwater is “operating with the concurrence of the Iraqi Government” (ibid.). Subsequently, in spite of Iraqi administration wanting to expel Blackwater from the country, the contract of the company was extended. This extension was later justified by the US administration by highlighting the fact that Blackwater was only deployed in Iraq to protect US government officials in a defensive way (Scahill 14/8/2009). However, “the public perception in Iraq [was] that Blackwater [was] no longer operating in the country” after the shooting; “that they [had been] kicked out and their licence revoked,” [said] Raed Jarrar, the Iraq consultant at the American Friends Service Committee. ‘The public perception [was] that they are gone already.’” (Jarrar in Scahill 14/8/2009). Scahill explains:

The language of the Status of Forces Agreement that took effect January 1, 2009, technically places Defense Department contractors under the jurisdiction of Iraqi law, but it appears to exempt State Department contractors such as Blackwater, Triple Canopy and DynCorp from Iraqi jurisdiction. Whether that has played a role in Blackwater's continued presence in Iraq is unclear. Prime Minister Nuri al-Maliki and other officials ‘gave a lot of lip service after the Nisour Square massacre, promising to prosecute Blackwater and ban them from Iraq, but they've done nothing[...].’

(Scahill 14/8/2009, Jarrar in Scahill ibid.)

Jarrar hints at a statement al-Maliki made after the Nisour Square shooting. Al-Maliki said:

With regards to Blackwater, this is also an issue related to sovereignty and the Iraqi citizens. The Iraqi Government is responsible for its citizens. It cannot be accepted by an American security company to carry out a killing. These are very serious challenges to the sovereignty of Iraq.

(al-Maliki in Miller 24/9/2007, Rubin/Kramer 24/9/2007)

The Status of Force Agreement (SOFA) indeed says that “Iraq shall have the primary right to exercise jurisdiction over [US] contractors and [US] contractor employees” and that “U.S. troops and the members of the civilian element commit to the necessity of respecting Iraqi laws”. However, regarding these laws, the SOFA does not mention the explicitly defined “United States contractors”/ “United States contractor employees” (United States of America and the Republic of Iraq 17/11/2008: 2 et seq., 8). Chuck Mason, author of a Congressional Research Report on the US withdrawal from Iraq and the SOFA, wrote:

As the term is defined in the agreement, ‘U.S. contractors and their employees’ only applies to contractors that are operating under a contract/subcontract with or for the United States Forces. Therefore, U.S. contractors operating in Iraq under contract to other U.S. departments/agencies are not subject to the terms of the SOFA.

(Mason 13/7/2009: 7)

Hence, Blackwater was neither made accountable nor provided anyone for the withdrawal of the PMCs – only the “US State combat Forces” are approached in the article regarding the withdrawal (United States of America and the Republic of Iraq 17/11/2008: 15). The reason why Blackwater was

further tolerated may have been rooted in alleged payments made by the company after the Nisour Square shooting. In 2009, The New York Times reported that three months after the shooting

Top executives at Blackwater Worldwide authorized secret payments of about \$1 million to Iraqi officials that were intended to silence their criticism and buy their support after a September 2007 episode in which Blackwater security guards fatally shot 17 Iraqi civilians in Baghdad, according to former company officials.

(Mazzetti/Risen 10/11/2009)

In addition to these pieces of evidence, there is another feature in the storyline which plays an important role in rewarding contracts to Blackwater by the US administration; the company's and/or Prince's close ties to the US government and the CIA. First, Prince, born rich, has always supported the Republican Party with huge donations since his student days and maintained particular close ties to the Republican Party (US House of Representatives Committee on Oversight and Government Reform 2/10/2007: 88 et seq., 92). Second, he has always been part of ideological movements which have been near to the mind-set of the Bush administration or included members of this administration. An example is the organisation Christian Freedom International of which Prince was a member of the board of directors and which supported the WoT publically (Scahill 2008: 213, CFI Field Staff 5/5/2011). Third, Prince has had personal contacts in the US administration, for example his former colleague and one of the many lobby partners of Blackwater Paul Behrends, and their former common boss Congressman Dana Rohrabacher (ibid: 211 et seq.). Paul Behrends still lobbied for Blackwater in 2008 and Dana Rohrabacher worked together with Secretary of Defence Rumsfeld in the cooperation with Afghanistan (OpenSecrets 2008, Rumsfeld 2011: 377). Prince also joined secret meetings of the Senate Armed Service Committee (Scahill 2008: 213) and, as previously mentioned, Bremer and Prince are said to have already been acquaintances before Blackwater was deployed to Iraq. Additionally, recall the link to Cofer Black and A.B Krongard which provided Prince with important connections to the DS. Cofer Black headed the CIA Counterterrorism Centre from 1999 until 2000, became President Bush's Coordinator for Counterterrorism at the DS on 10/10/2002 and served as Vice Chairman of Blackwater from 2005 until 2008 (Scahill 2008: 332 et seq.). The fact that Black, and the other functionaries that joined Blackwater were employed by Blackwater after he had worked in the CIA and/or the state security sector is telling in that they might have aided Blackwater during their previous employments. Additionally, while A.B. Krongard held the "number-three position" in the CIA (Scahill 2008: 108) and has been an alleged acquaintance of Prince, his brother, Howard Krongard, served as Inspector General in the DS where he was "responsible for overseeing Blackwater's work for the [DS]" (Scahill 20/8/2009). Remarkably, Henry Waxman, then Chairman of the Committee on Oversight and Government Reform, described "allegations from current and former officials in the office of the Inspector General that Mr. [Howard] Krongard interfered with a Justice Department investigation into evidence that a large private security company [Blackwater] was smuggling weapons into Iraq" (US House of Representatives Committee on Oversight and Government Reform 14/11/2007). The potential suspicion that these activities of Howard Krongard relate to the findings of Strobel et al. cannot be determined. Additionally, it is not given that these contacts (directly) led to the deployment of Blackwater. Nevertheless, these close social contiguities are significant and telling.

6.2.3. Summary

The causal conditions which have led to the deployment of Blackwater can, while they overlap, be sorted into categories. First, there are broader conditions drawn from the storyline. There is firstly the WoT which is the fundamental condition. Secondly, there is the neoconservative and liberal mind-set of the Bush administration and the aim of this administration to transform the military and achieve higher efficiency and effectiveness by military outsourcing. Thirdly, there are the perceptions and interpretations of the norms of the state monopoly on force and sovereignty. The former is interpreted comparatively broad within the US and sovereignty is considered entailing the responsibility to protect people and the right of non-intervention which especially applies to the US. The perception of sovereignty on Afghanistan and Iraq shows similar patterns. The next causal conditions are conditions

on the part of Blackwater. They include that the company has been able to win contracts in biddings and to quickly provide a wide range of specified services facilitating it to meet a wide range of demands. Regarding its deployment in Iraq, Blackwater certainly profited from the temporal immunity of PMCs from Iraqi law which made it less assailable and thus its actions potentially less restrained. These features do not distinguish Blackwater from other PMCs, but Blackwater surely profited from its incumbency advantage in the long run. Moreover, Blackwater has created shell companies, enforcing its ability to meet a wide range of demands and providing it with increased opportunity to act incognito. Next, there are the conditions on the side of the employers, namely the US administration and the CIA, and of the hosting countries, Afghanistan and Iraq. The US administration, specifically the DS and the DoD, had urgent and compelling needs which required quick solutions - there was a lack of (human) resources which needed to be filled by contractors which were also able to provide services for which the US troops are not trained. This made the US able to free (human) resources for other theatres and allowed for the sole-source contracts Blackwater received. The CIA has had similar conditions. It was in urgent and immediate need of manpower able to provide security. Another condition which applies to the US administration and the CIA was that they could avoid accountability and publicity by using PMCs. Regarding the hosting countries, the finding is that they obviously did not have a say in the matter. Concerning Iraq, it is important to keep in mind that Blackwater executed personal protective security services for US employees but did not work with the Iraqi administration. The finding is that this administration indeed wanted to expel Blackwater from the country but did not sufficiently provide for it in the SOFA. In this case, alleged bribery payments from Blackwater to the administration might have played a role. Regarding Afghanistan, the findings are that the Afghan security forces have not been able to execute their tasks without help, that Blackwater obviously was favoured by the Afghan government and that the Afghan government has been dependent on the benevolence of the US administration. The potential suspicion that bribery on the part of Blackwater might have played a role during the deployment, i.e. regarding the list of favoured countries, cannot be confirmed.

The following conditions overlap with Blackwater's conditions and those of US agencies: the personal contacts between the actors. Here it is important that many Blackwater employees have worked for the CIA before, that Prince has had personal contacts in the CIA and with Bremer, and that Prince was obviously able to interact with high level officials mainly of the DS. The final conditions are summarised under the category "others". This category includes the facts that Blackwater was obviously in the right place at the right time after the attack on the USS Cole and the "Columbine Massacre", and that Prince has been affiliated with conservative movements that are near to the mind-set of high government officials and might have played a role.

6.3. Discussion and Answers to the Question

Now that the storyline and the “smoking gun” and “confession” observations have been presented, the accordance of the hypotheses with the empirical findings is discussed and answers to the research question(s) formulated. The necessary and sufficient conditions for the deployment are hereby distinguished.

The first hypothesis states that Blackwater was deployed because it was believed that the implementation of the assigned tasks was more cost-efficient by Blackwater than by the US Army. This assumption can be confirmed to the extent that the initial turn to PMCs originates in the economic policies pursued by Cheney and Rumsfeld, especially the latter promoted outsourcing of military tasks for cost-efficiency reasons. Nowadays, PMCs are still considered to be a cheap alternative. It is noteworthy, however, that the deployment of PMCs in general, Blackwater in particular, has turned out to be comparatively expensive in the long-run and that long-term reasons for their deployment include their expertise and deniability as opposed to their cheapness. The reasons why PMCs are nevertheless deployed repeatedly will be approached in the course of this discussion. Following the basic assumption of this study, it is also noteworthy that the policy Rumsfeld pursued can be considered to undermine the concept of sovereignty he supported: the premise to hold a state accountable for its performance can hardly be fulfilled when the state outsources its tasks to limitedly accountable and controllable actors. However, recall Rumsfeld’s aim to transform the military to address changing threats – by trimming the defence apparatus he wanted to increase its efficiency and effectiveness. Recall also his perception that the duty of sovereign states is to approach threats and to uphold human rights. It would be an exaggeration to argue that PMCs were deployed by the US as a means to fulfil the duties of a sovereign state. However, it can be inferred that Rumsfeld considered the re-allocation of (human) resources, including outsourcing them, as a means to achieve higher efficiency in fulfilling the duties of the US as a sovereign state and not as an undermining of the sovereignty of the US. Given the support of Rumsfeld’s policies and the mind-set underlying the Bush administration, it is likely that this perception was, in constructivist terms, intersubjectively shared.

As already indicated, the second hypothesis saying that Blackwater was deployed as its deployment allows the US departments and the CIA to avoid difficulties and to deny liability can be confirmed to a certain extent. The CIA, more precisely its Chief of the Directorate of Operations Prado, is said to have deployed Blackwater to blur the lines between targeted killings and the CIA. Similarly, the outsourcing of security tasks in Iraq and Afghanistan by US departments has been considered to be intended to avoid public debates and political efforts. Interesting to note is that on the one hand, this perception is represented in the research conducted by the US National Defense University which is affiliated to the US army. This suggests that the US army might have a critical view of PMCs. On the other hand, it is significant that Blackwater has also tried to circumvent its bad reputation by creating the shell company Paravant. Hence, the urge to prevent debates and criticism must have been strong in general. The particular aim of the CIA has, however, been the deniability of PMCs as it allowed the Agency to conduct its already clandestine operations more clandestinely. At first sight, the aim of the US departments seems to have been to circumvent mobilisation efforts, political debates or democratic and bureaucratic procedures regarding the whole deployment, i.e. Congress authorisation, rather than to deny liability for incidents. However, the aim to circumvent mobilization efforts and debates might also entail liability for incidents happening on site, i.e. while securing an area or defending clients. It is important to remark that avoiding liability by deploying PMCs means a transfer of liability to PMCs. As PMCs have limited accountability, such a move dilutes liability for incidents PMC are involved in. This contrasts the notion that a state has to be rendered accountable for its performance or for what happens in its name. However, as this issue relates to the state monopoly on force, it is further addressed within the discussion regarding hypothesis number six.

While the previously discussed hypothesis refers to a certain purpose utilised by PMCs employers, the next set of hypotheses draws on the assumption that governments may in certain conditions have no other choice but to deploy PMCs due to a lack of expertise or resources. Regarding the assumption

that the US departments had no alternative but to deploy PMCs as they required special knowledge, the finding is that Blackwater has indeed been deployed to provide personal protective services US soldiers are not trained for. The training tasks Blackwater executed for the Afghan security forces could have been assumed by US army officials. However, the reason for the use of PMCs for training tasks might originate in the fact that the US lacked (human) resources – as research by the National Defense University and several statements show, the US departments and the CIA lacked manpower, including trainers, which they needed to satisfy with private contractors. Remarkably, the US departments' lack of human resources is partly explained by the parsimonious policy of Rumsfeld which was actually meant to increase the agility of the US army by “just-in-time-hiring” but obviously resulted in a paralysing lack of manpower. Moreover, this need for resources and expertise might be a reason why PMCs have been deployed repeatedly although they turned out to be expensive in the long run; the deployment of PMCs must have been considered as being more efficient or effective than acquiring one's own expertise or resources.

In order to answer the first sub-question, the assumption that the deployment of Blackwater stems from successful lobbying by its representatives is now addressed. This assumption is substantiated by the heavy influence of the MIC on the international and defence policies of the US. Referring to the previously discussed hypothesis, this interest group might have convinced officials in charge that outsourcing military tasks is more efficient and/or effective than acquiring resources and expertise by the agencies themselves. Additionally, Blackwater, per definition part of the MIC, and its CEO Prince in particular have had close (personal) connections both to the US administration and the CIA, which have obviously contributed to the business of the company, that is to say the assignment of Blackwater was facilitated and/or enabled by (personal) connections: the help of A.B. Krongard is considered proven and the acquaintanceship between Prince and Bremer is likely to have supported the deployment of Blackwater just like the connections Prince has had to the US administration. Interesting to notice is that Bremer, in dissolving Iraq's security institutions, in effect only established the conditions which led to the need of added security forces in Iraq. Moreover, the fact that many former CIA officials have joined Blackwater after their work at the CIA hints at a mutually profitable relationship between these officials and Blackwater in the course of which these officials might have provided Blackwater with assignments or favours and Blackwater might have rewarded them with profitable positions in the company. Furthermore, it is noteworthy that many former CIA and US department officials joined Blackwater after they had worked for these agencies but that there is no evidence that former Blackwater employees joined the public service. Drawing on the fact that many US state soldiers have changed to Blackwater because of the high wages Blackwater guards receive, the reason for the one-way workforce change of officials might be that Blackwater generally offers better working conditions, such as higher salaries, than state agencies.

The fact that representatives of Blackwater influenced the US administration to the effect that this company was awarded contracts corresponds with the liberal notion that state behaviour is determined by domestic actors. Additionally, the fact that the outsourcing of military tasks has led to comparatively high costs in the long-run corresponds with the notion of rent-seeking. However, while Blackwater has used “traditional” strategies of interest representation via lobby organisations, the apparent way in which Blackwater received many of its contracts obviously exceeds the notion of interest representation and rent-seeking of domestic actors – due to the personal contacts, the manner of the realisation of the contracts might rather be approached as nepotism or favouritism than mere lobbying. Thus, the cooperation between Blackwater and the CIA and US government officials can be considered as showing patterns of political corruption which is defined as “abuse of public power or resources for private benefit” (Kurian 2011). This definition is fulfilled the most clearly with the help of A.B. Krongard – his acquaintance benefited from obtaining assignments and he obtained a profitable position within Blackwater. Additionally, some methods of Blackwater, for instance the bribery payment Blackwater made to the Iraqi administration to potentially avoid bad publicity also, fulfil the definition of political corruption.

As nepotism, favouritism and corruption are insufficiently represented in the governance approach, the literature on governance is rather concerned with enhanced democracy or enhanced effectiveness due to the increasing inclusion of civil society in policymaking, further research could compare the influence of societal actors in governance arrangements first with the notion that increasing activity of civil society enhances democracy and secondly, with the notions of rent-seeking and consequent disadvantages for civil society. Either way, the assumption that Blackwater won contracts due to interest representation is true but does not capture the whole picture of nepotism and corruption. These corrupt dynamics might additionally explain why Blackwater was not debarred but deployed repeatedly.

The answer of the first sub-question consists of a summary of the previously discussed hypotheses. Blackwater was deployed instead of US soldiers, because the deployment of PMCs has been considered to be more efficient than using state soldiers. This is as much a sufficient condition for the departments as the fact that they were in need of additional manpower and expertise in security services which Blackwater could supply. The CIA initially turned to PMCs due to lacking (human) resources too, but the advantage of deniability seems to have gained more importance. Hence, both the deniability and the lack of resources are sufficient conditions regarding the CIA but the determining character of the latter has potentially weakened. The departments valued the option to prevent difficulties as well, but as the lack of human resources and expertise, and/or the belief in the efficiency of the usage of PMCs seemed to have been the determining conditions, the avoiding of difficulties can be rated as a downstream and thus necessary condition. Blackwater in particular received contracts as it won biddings advertised in the course of the outsourcing policy and was favoured by officials of the CIA and US departments. These are necessary conditions, as the need to use PMCs must have been there before Blackwater was chosen. The perception of this need potentially stems, at least partly, from the lobby work of the MIC.

Taking up the notion that governments may have no choice but to acquiesce to the deployment of PMCs, the finding is that the sovereignty of Afghanistan and Iraq has indeed been perceived as being undermined by the presence of PMCs. The reason is that the governments were not able to assume responsibility for the security of their citizens, which constitutes sovereignty. The Afghan administration has been dependent on the benevolence of the US, namely aid, and in the long-run, the deployment of Blackwater was made dependent on the performance of the Afghan security forces. The incorporation of Blackwater into a list of favoured companies is notable, but might also be explained by the Afghan dependency on the goodwill of US officials – there is no evidence for bribery in this case. Regarding Iraq, the finding is that the Iraqi administration did not sufficiently provide for the legal accountability and withdrawal of PMCs in the SOFA. Regarding the alleged bribery payments of Blackwater, it is noteworthy that, as Blackwater was deployed by the DS, there has been no licence which could have been withdrawn by the Iraqi administration – the only means of regulation was the contract with the DS and therefore the influence of the Iraqi administration on the deployment has potentially been scant. Hence, the announcement to withdraw the licence might have been a move from the Iraqi administration to gain popularity as Blackwater was unpopular in the country. The question as to why Blackwater paid the Iraqi government even though Iraq did not have a say in the matter could be answered with the fact that Blackwater wanted to avoid bad publicity which the Iraqi administration could have induced. However, further discussion of this exceeds the scope of this study. Finally, it has to be considered that the PMCs deployed in Afghanistan and Iraq was affiliated to the US operations in the countries. As the US invaded Afghanistan and Iraq, the countries had no choice, per definition. Consequently, hypothesis number four is confirmed and the third and fourth sub-question can be answered to the effect that due to the invasion and occupation, the Afghan and Iraqi administrations could not exercise their sovereign rights and could not autonomously decide on the deployment of Blackwater. As the occupation by the US of the countries was, from the point of view of Afghanistan and Iraq, the only condition for the deployment of PMCs, it is a sufficient condition for these countries.

The discussion so far shows that the factors mentioned by Prado hold true. The resource and the functional dimensions elaborated by Krahmman, the latter of which says that “the growing recognition of [...] the limited expertise and resources of governments [...] has strengthened the role of private actors” (Krahmann 2003: 15), are strengthened as well. Additionally, the importance of including the power of particular societal interests in governance arrangements has been substantiated.

To verify the sixth hypothesis it has to be assessed whether the deployment of PMCs conforms to the North-American perception of the sovereignty of the US or not. Recall that the monopoly on force presupposes the applied norm of sovereignty and that the – North-American – interpretation of this norm is considered to have changed towards the control of force rather than the actual exercise of it. The distinguishing feature is that the former requires sufficient “monitoring devices” in order to make sure that the force is implemented according to the state’s requirements. However, as there is no distinct legal framework regarding PMCs, their factual control and supervision is hardly possible. Drawing on Frost, however, PMCs can be considered as being controlled because they are considered to be “subject to competition from other players in [the] market [which] provides them with a structural incentive to be true to their professed commitments”, and thus perceived as legitimate participants and right holders in the global marketplace which are reliable. Thus, PMCs are considered to not need further – factual – control (Frost 2009: 90). Consequently, the transfer of liability to PMCs mentioned in the discussion regarding the second hypothesis did not, in the perception of the US administration, dilute accountability as PMCs are forced by societal structures to comply with norms and provisions. Reversely, this buttresses the notion that the departments also sought to avoid accountability as companies, not the administration, are rendered liable for what happens on site. Drawing on the conviction that PMCs are forced to act truthfully, it can, however, be inferred that the issue of liability is not supposed to arise as PMCs are not expected to evoke incidents for which they have to be rendered liable. The fact that PMCs did evoke such incidents has obviously not outweighed the belief in the truthfulness or the perceived need of PMCs; both potentially strengthened by the activities of the MIC.

Frost’s explanation shows why PMCs are potentially considered not to need further factual control, and one could already anticipate the answer to the second sub-question. However, the interpretation of sovereignty of the US still has to be addressed. Recall the bifurcated nature Sinclair and Byers ascribe to the North-American interpretation of the sovereignty of the US, which emphasises firstly the independence and integrity of states, especially of the US; that is to say the norm of non-intervention. It emphasises secondly the invulnerability of people; that is the protection of human rights. These features are buttressed by the “selective sovereignty thesis” - both include the idea that states have to be able to do whatever they want as long as they protect and defend human rights and their people, and do not threaten other states, the US in particular. The notion that states have to be free in choosing what they want to do follows liberal notions of sovereignty which say that states follow individual understandings of sovereignty. Furthermore, note Campbell’s perception that the USA is a social construct of people who have come to live in the respective area, and his judgement that the existence of the USA is dependent on the practices and shared self-understandings of these people; and the findings of Sinclair and Byers that the North-Americans consider their sovereignty as potentially never being compromised and that democracy and consent make a state sovereign. The inference of these perceptions, which follow constructivist notions, is that the North-American people consider the sovereignty of their country as constituted by themselves by their intersubjective understandings and agreements about the existence of the sovereignty of the US – as long as the North-American people follow their conventions and self-images, the US is sovereign.

Similarly, Frost argues that the practice of the SOSS is based on the ethics entailing that states are free and build a community of free states in the international system, which includes the norm of non-intervention, and that states are instruments to protect human rights and the GCS respectively. Following the latter aspect and the fact that PMCs comply with the values of the GCS, it can be inferred that the usage of PMCs can be a legitimate measure by states to protect the GCS (cf. Frost 2009: 60 et seq., 87 et seq.). Moreover, drawing on the similarity of Frost’s notion of sovereign states

to the liberal definition and to the perception outlined by Feith and by Sinclair and Byers, the deliberations of the North-American interpretation of the sovereignty of the USA can be summed up as follows: the sovereign state is constituted by the people living in it and is thus responsible for the protection of this society, that is especially the North-American people, and human rights. Additionally, both civil society and sovereign states are ascribed individuality and liberty, and the sovereign state has the freedom to choose the way how to pursue its tasks. But wherever this freedom is challenged and the fulfilment of these tasks compromised, the sovereign state has the right to eliminate this challenge. This interpretation is based on constructivist and liberal notions and it can be inferred that this perception of sovereignty complies with the understanding of sovereignty as the responsibility to protect and provide for a people, whose abstract, ideal type understanding is considered to be undermined by the deployment of PMCs. However, the individual North-American interpretation of this norm, entailing the primacy of society, the basic freedom of action of states and the constituted character of the norm itself, is not affected by the deployment of PMCs. Additionally, although many advocates of the understanding of sovereignty as responsibility, i.e. Slaughter, consider the norm of non-intervention as being outdated, it obviously still plays an important role in the outlined conception of sovereignty. The Afghan and Iraqi notions of sovereignty also value the norms of responsibility and non-intervention.

Following the findings, it can be inferred that the decision makers in the US obviously trusted in the compliance of PMCs to their provisions and to given standards and norms. Additionally, drawing on the North-American understanding of sovereignty, the answer to the second sub-question is that Blackwater was deployed because the officials in charge did not consider the sovereignty of the US as being affected by this deployment – hypothesis six is confirmed. As the deployment of Blackwater would not have been possible without compromising the sovereignty of the US given another interpretation of sovereignty, this is a sufficient condition.

The answer to the main research question consists of two interdependent parts. The first part of the answer entails that Blackwater was deployed as the usage of PMCs is considered to conform with both the state monopoly of force and sovereignty as interpreted by the North-Americans; a sufficient condition. These assumptions, however, suggest that the deployed PMCs adhere to the provisions of the US. The facts that PMCs have been deployed repeatedly although they have proven to not always comply with the given provisions and that they turn out to be expensive in the long-run lead to the assumption that the need for PMCs has been perceived as very strong by the administration and the CIA. This perception might, at least partly, originate from the influence of the MIC which can be rated as a sufficient condition as it helped to establish the habit of PMC use. It is here, the second part ties in. It entails the perceived need of PMCs. Their usage has been believed to be more efficient than deploying US soldiers and their services were supposed to fulfil the need of the US departments and the CIA for manpower and expertise, the need that the agencies could not satisfy with their own resources. These have been sufficient conditions for all US agencies. However, regarding the CIA, the aim to avoid difficulties by deploying PMCs seems to have become more determining in the long run. This has also been an aim for the US departments, but in this case it is considered a necessary condition. Blackwater in particular was chosen as it won biddings and as relevant officials in charge favoured the company. Potential additional reasons are that the company has offered a wide range of services, has strived to change its image and profited from the incumbency advantage in the long-run. However, as the deployment of Blackwater is necessarily based on a perceived need to deploy PMCs, these are necessary conditions.

Finally, the sovereignty of Afghanistan and Iraq has deliberately been violated by the US as the US administration was convinced that the US has to provide for a well-ordered international system and also prevent threats by undermining the sovereignty of other states. This is a sufficient condition.

WHY BLACKWATER?

MOTIVES OF THE USA TO DEPLOY PRIVATE MILITARY COMPANIES

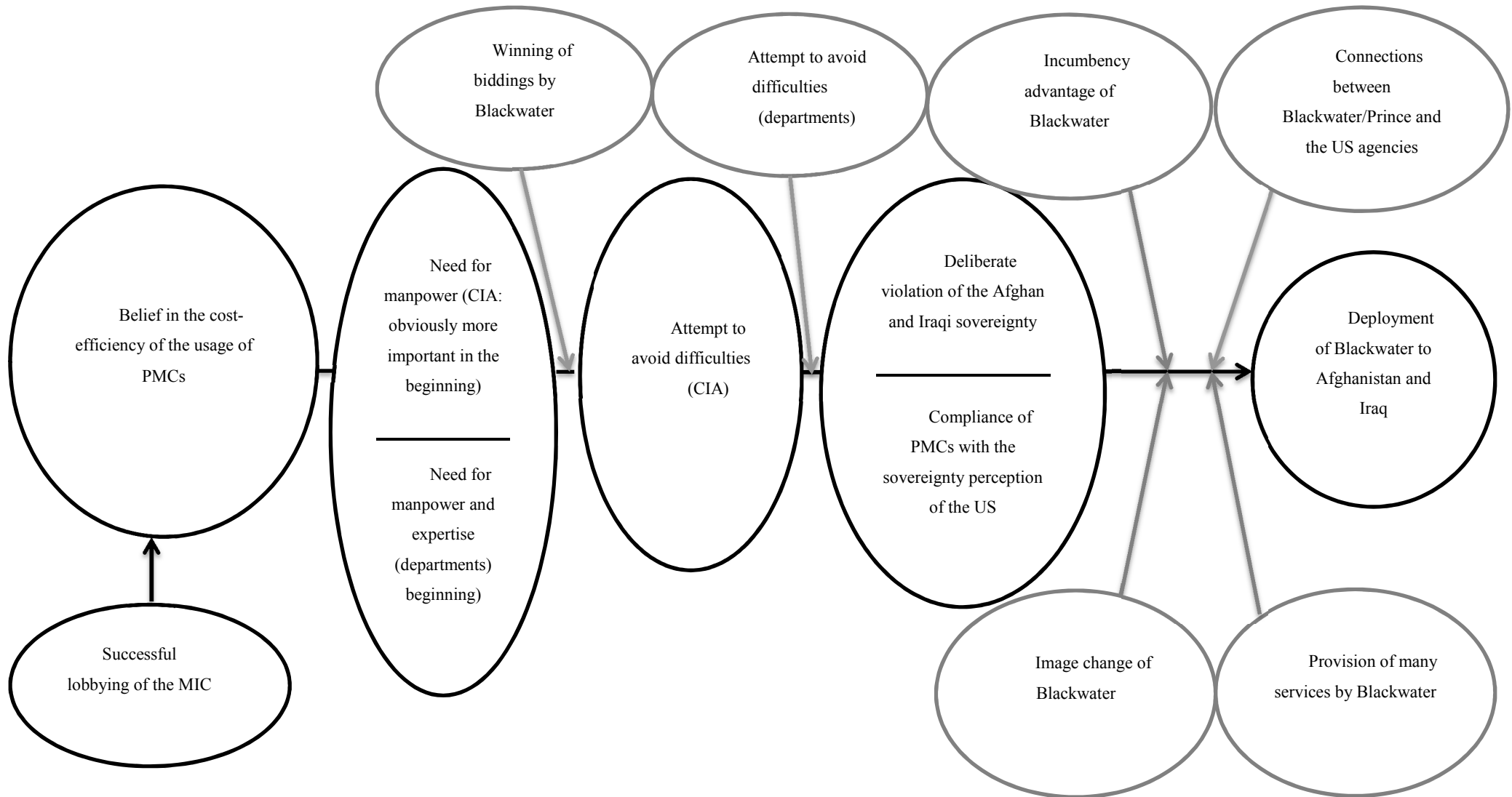


Figure 5: Most important steps in the causal pathway towards the deployment of Blackwater (black circle: sufficient condition, grey circle: necessary condition).

7. Conclusion

This study analysed the question why states deploy PMCs although they are said to undermine the sovereignty of states, and used the deployment of Blackwater in the course of the WoT as example case. The underlying assumption has been that the sovereignty of states is nowadays understood as their responsibility to protect and provide (security) for their people. This conception presupposes the state through its monopoly on force needs to be able to control force in order to protect its people from force. However, as there is no distinct international legal framework which governs PMCs and the national regulations, including the national laws of the USA, being insufficient as well, states have hardly any possibility to sufficiently control PMCs and the force PMCs execute in the name of a state in question. Thus, the state monopoly on force is considered as being undermined by the deployment of PMCs and along with it the sovereignty of a state in question. While the analysis was based on theoretical approaches to security governance, constructivist intersubjectivity of norms and liberal interest representation, the findings of the case study, the deployment of Blackwater by the USA to Afghanistan and Iraq, can be divided into two parts. The reasons why Blackwater was deployed were on the one hand, firstly, the belief that outsourcing military tasks improves the efficiency and effectiveness in accomplishing these tasks. That secondly, the US administration, more precisely the DS and the DoD as well as the CIA, had shortages in manpower and expertise which needed to be satisfied and provided by PMCs. This is why they did not deploy their own forces. Thirdly, that the agencies could prevent political and public accountability for what would happen on site by deploying PMCs. Fourthly, that Blackwater was able to win biddings and fifthly, that the company was favoured by officials in charge at the US administration and the CIA. On the other hand, the sovereignty norm as interpreted by the North-Americans allows the deployment of PMCs and is not considered as being undermined by their usage. The cause for this is firstly, that PMCs are obviously considered as being governed by societal requirements of probity and truthfulness and secondly, that the sovereignty of the US is perceived as constitutive practice performed by the people itself, established and exercised to protect them and thus potentially never compromised. The sovereignty of Afghanistan and Iraq has, however, deliberately been undermined by the invasion of the USA in order to provide for a safe international system. Hence, the two countries had no say in the matter regarding their sovereignty.

Although this study did not primarily aim at analysing the value of a theory, there are still theoretical findings, namely that (security) governance is indeed induced by cost-efficiency reasons and by the fact that governments need or want to rely on resources of private actors. Hence, the factors mentioned by Prado and the functional and resource dimensions outlined by Krahnemann hold true. Moreover, the study has shown that, in the US, the state monopoly on force is nowadays understood as the monopoly of state control of force and that sovereignty is indeed interpreted as responsibility to protect and provide for the people but that the norm of non-intervention still plays an important role. This study also suggests that the increasing options of self-interested enforcement of interests on the part of domestic actors are neglected in the governance approach but play an important role in governance arrangements.

The findings of the study indicate, firstly, that sovereignty is a subjective concept which is constructed by a people in question. Consequently, the existence of a potentially universal perception of sovereignty can be questioned. The study indicates secondly that the promises made by advocates of outsourcing for efficiency reasons cannot always be kept, and thirdly that the increasing disaggregated and fragmented structure of the political arena bears the risk to be exploited by rent-seeking participants. Fourthly, it has become clear that the approaches to characterise and analyse today's international system are still insufficient and have to be further developed. Fifthly, the study has provided a look behind the scenes and indicated that governments, namely the US administration, use dubious methods, such as favouritism, in outsourcing traditionally governmental tasks and do not back off using controversial actors. This is potentially not in the public interest. Finally, it can be inferred that international security might increasingly become a matter of financial power as the latter might increasingly determine the ability to persist in a war.

Consequently, further theoretical research could analyse the influence of pressure groups or individual company lobbying in governance arrangements and compare the notion of strengthened democracy and effectiveness with the notion of rent-seeking. Options for further practical research correspond with the recommendations which can be issued. As PMCs can only be limitedly held accountable, it is necessary to find out what a legal framework to govern them would have to look like and to eventually build it. This would make PMCs accountable and improve the transparency of their actions. Similarly, oversight and transparency of government contracting in the US need to be enhanced. Moreover, studies about the actual efficiency of PMCs, for instance, whether it is indeed cheaper to hire private actors than to provide additional training for one's own army, and about their effectiveness, for example, whether they indeed provide security or whether their activities rather increase the perception of insecurity, would help answering whether they are indeed necessary or not and contribute to the overall knowledge of this phenomenon.

Finally, although PMCs might be perceived as accountable participants in the global market, it is questionable if governments are well-advised to hire PMCs. The ascribed legitimacy of their work might be based on the belief that that they are forced to comply with the provisions of their employers and of civil society; yet they have often proven that they do not follow these rules. Additionally, the options to provide for their compliance are hardly sufficient and the creation of a legal framework to govern them is not in sight – security and military integrity are too essential goods to economise on or to let them be influenced by individual preferences.

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Appendices

Below is the additional information referred to in the empirical analysis.

Appendix I: The War on Terror and the United States

The attacks of 9/11 killed 3000 people, wounded twice as many and are considered to be a historical caesura (LPB BW 2013 (a)). The US government under George W. Bush reacted with a shift in its foreign policy to the new central focus of counterterrorism which was labelled as the “War on Terror” (WoT)²⁸ by President Bush (CNN.com 21/9/2001). With “air and missile strikes against Afghanistan” (Zalman/Clarke 2009), the country where the headquarters of al-Qaeda were located, the US made the first move of this war on 7/10/2001. This operation was called “Operation Enduring Freedom” (OEF) to show “that this is not a quick fix” and that “it will take years” (former Secretary of Defence D. Rumsfeld in Lambeth 2005: 52 et seq.). However, the Bush administration did not consider the invasion of Afghanistan to be sufficient to fight terrorism. In his State of the Union Address in January 2002, the President argued that the states of the “axis of evil” pose a threat to international security (The Washington Post 29/1/2002). As the US administration was convinced that Iraq possessed WMDs and had been involved in the 9/11 attacks, it invaded the country after the deadline on the ultimatum to the Iraqi leader Saddam Hussein to leave the country on the 20/3/2003 had expired (LPB BW 2013 (b)). While OEF in Afghanistan still goes on, the war in Iraq ended already in May 2003 and Operation Iraqi Freedom (OIF) ended in September 2010 (United States Forces-Iraq 2013). The US forces finally withdrew from Iraq in December 2011 (USA Today 18/12/2011). However, the US administration maintained a large embassy in Baghdad and consulates in Basra, Kirkuk and Mosul which are protected by PMCs (Denselow 15/10/2011).

The attacks of 9/11 shook the faith in the invulnerability of the US and in its sovereignty. “International terrorism, is [...] dangerous because [...] it can potentially destroy the domestic contract of the state by [...] undermining its ability to protect its citizens from direct attack” (Cronin 2002: 134). The US government failed in providing security for its people and the fact that the attacks had been carried out by a “tiny band of terrorists” might have enforced this affront (Jackson 2007: 297). Consequently, the WoT can be understood as an attempt by the US to reassert its sovereignty (Reid 2005: 241). Namely, to prevent another event that would jeopardise the security of the US people, to show that the US administration provides for the security of its people and to demonstrate its power to do so.

As well as undermining US sovereignty, the attacks on the icons of the economic and foreign power of the US, the Twin Towers of the World Trade Centre and the Pentagon, also affected North-American integrity and identity (Rumsfeld 2011: 267, Jackson 2007: 312). While some scholars considered the “clash of civilizations” to have come true, others argue that the “Islam might be on the verge of undermining a presumably autonomous Western and European identity” (Zalman/Clarke 24/6/2009). The reason is that because “Muslims became accustomed [...] to perceiving themselves as the bearers of the final and true faith, and so never came to understand or accept the Christian civilization of Western Europe [...] the shock of Western ascendancy has led [...] to two responses: emulating the West and its secular culture or returning to the fundamentals of the faith -- the path whose most extreme manifestation is Mr. bin Laden” (Schmemmann 25/1/2002). However, other scholars have questioned the labelling of the WoT as the “clash of civilizations” as it also entailed state-building, aid and regime change (Cronin 2002: 132). Either way, it has been a confrontation of identities. Identity is achieved by performance, practices and actions over time but is, paradoxically, also “constituted in relation to difference” (Campbell 1992: 8). This means that “the constitution of identity is achieved through the inscription of boundaries which serve to demarcate an 'inside' from an 'outside,' a 'self' from an 'other,' a 'domestic' from a 'foreign’” (ibid.) and the greater the presence of the “other”, the stronger one’s identity or the awareness of it. This requires further explanation.

²⁸ Also “Global War on Terror” (GWOt).

Regarding public policy, “the boundaries of a state's identity are secured by the representation of danger integral to foreign policy” (Campbell 1992: 3). That is to say, that if there is a potentially dangerous “other”, which contradicts one’s identity, exactly this identity is enforced. Moreover, the USA is the paramount example of an “imagined political community”, that is its existence is dependent on its textual representation and “practices which constitute their reality” (ibid: 105). The reason for this is that “there never has been a country called 'America', nor a people known as 'Americans' from whom a national identity is drawn [...]. 'America' only exists by virtue of people coming to live in a particular place” (ibid.). Therefore, North-Americans cling to their identity, the impact of which is visible in North-American everyday life and in the practices of its foreign policy. The latter is logically a “political practice central to the constitution, production, and maintenance of American political identity” (ibid: 8).

The actors who committed the attacks of 9/11 stem from a culture other than Western and their “leader” had declared a religious war on the West²⁹. Hence, the attacks have been perceived as attacks on the Western way of being. Finally, in labelling the Afghan and Iraqi identities as dangerous “other”, categorising their cultural area as the “axis of evil” and calling the WoT a “crusade” (Scahill: 2008: 61), not only their identity but their whole culture has been attacked – potentially one important factor for the unpopularity of the occupying forces.

Hence, one can conclude, that the significance of the war draws on the fact that it has been perceived as reassertion and/or demonstration of the sovereignty of the US as well as defence of the North-American identity in opposition to the identities of Afghanistan and Iraq. The issue of the identities is not of direct importance for the cases of this study but it cannot be left out for the understanding of the uniqueness of the cases and the discussion at the end.

²⁹ In 1996, Osama bin Laden issued a Jihad against the USA whom he accused of waging war against the Islamic people, and issued a Fatwa, an edict, in 1998 in which he again claimed that the USA and its allies did wage war against the Muslims. “The fatwa made use of the principle of defensive jihad to argue that U.S. aggression made armed resistance and the targeting of American civilians and military personnel incumbent upon all Muslims” (Blanchard 2004: 2 et seq.).

Appendix II: The Development of Blackwater

Blackwater, renamed as Xe and now called Academi³⁰, is a Virginia-based PMC founded by former Navy SEAL Prince and co-designed by Navy Seal Al Clark. It was incorporated as Blackwater Lodge and Training Center in December 1996 and opened for business in May 1998. The main motivation behind the company was to provide security training. (Scahill 2008: 97 et seq.). After its business was boosted after the “Columbine Massacre” in April 1999, Blackwater won its first General Service Administration (GSA) contract on 1/2/2000 (ibid: 100, 101). The “GSA schedule” “essentially opened Blackwater up for ‘long-term government contracts’” (Scahill 2008: 101 citing mail from a GSA official). After the attacks on the “USS Cole” in October 2000, led by Osama bin Laden, Blackwater received its first big contract to conduct “force protection training” for the Navy (Scahill 2008: 104, Committee on Armed Services United States Senate 24/2/2010). Significantly, the Navy had “already committed itself to incorporating ‘a comprehensive plan to reduce infrastructure costs through competition, privatization and outsourcing’” (Scahill 2008: 104 citing the website of the Navy). At roughly the same time, Jamie Smith, one of Blackwater’s first employees and former CIA official, suggested establishing a new division to provide security services (Pelton 2006: 38). Shortly after the attacks of 9/11, Blackwater signed contracts with the Federal Bureau of Investigation (FBI) and began to train almost every branch of the government. In January 2002, Blackwater Security Consulting³¹ was incorporated in Delaware and “burst into the world of soldiers-for-hire” (Scahill 2008: 106 et seq.).

In 2005, Blackwater declared that its employees were not amenable to public law but to the code of conduct of the International Peace Operations Association (IPOA)³², which actually does not have legal force. However, in 2007, an amendment was added to the Congress’ defence-spending bill which made Blackwater amenable to the UCMJ (ibid: 57). In addition, Blackwater left the IPOA in late 2007 after the IPOA had authorised investigations of the Nisour Square incident, which followed its code of conduct. Following this, Blackwater set out to build the Global Peace Operations Association (Chesterman/Fisher 2009: 224). As all information regarding this institute links to a certain website which no longer exists, it is doubtful that the institute (still) exists. In 2009, Blackwater changed its name to “Xe” because “the idea is to define the company as what it is today and not what it used to be” (Anna Tyrell, spokesperson of Blackwater, cited by Hegpeth 14/2/2009). In December 2011, the company renamed itself to “Academi”. This “name change aims to signal a strategy shift by one of the U.S. government’s biggest providers of training and security services” (Ted Wright, then president and chief executive of the company, cited by Hodge 12/1/2011).

In the course of the WoT, Blackwater was initially deployed to Afghanistan in order to protect the CIA station in Kabul and to Iraq to protect the US ambassador L. Bremer. It was subsequently awarded innumerable follow-up contracts and has in fact been deployed continuously in these countries for several years (Scahill 2008: 109, 111). Along with other companies, such as KBR, DynCorp or L-3 Communication Holdings, Blackwater has been one of the biggest PMCs deployed to Afghanistan and Iraq in terms of executed contract transactions (The Center for Public Integrity 19/11/2007). Moreover, it has become infamous in the context of the outlined incidents at Nisour Square and in Fallujah and for the many incidents in which it has been involved – for example their participation in the targeted killing programs of the CIA, a shooting during a security training in Afghanistan during which two drunk employees killed two civilians died (US Congress Committee in Armed Services United States Senate 24/2/2010:2), the alleged import of prohibited weapons (Ross 14/11/2008), the alleged bribery of the Iraqi Administration or the inadequate prosecution of Blackwater employees. Consequently, it has gained tremendous and highly critical media attention (Mazzetti 18/9/2009, McKay 14/11/2007, Risen/Williams 29/1/2009). The controversy of this company has also reached the US administration where also the Christian conservative image of the well-known founder and CEO Prince, affiliated to many neoconservative and religious movements

³⁰ In this study, the name “Blackwater” will be used for reasons of comprehensibility and as the company carried it when it was deployed to the countries.

³¹ For reasons of comprehensibility and as the company has uncountable affiliations which change their names regularly, only the title “Blackwater” is used in the study to refer to the company.

³² The institution is now called “International Stability Operations Association” (ISOA).

and organisations is met with disapproval. For example, the chair of the House Intelligence Subcommittee on Oversight and Investigations Representative Schakowsky, who leads classified investigations on Blackwater, said in an interview:

We're talking about murder, a company with a horrible reputation that really jeopardizes our mission in so many different ways". She argues furthermore "that the message that using this firm sends to Muslim countries in particular is that the US has no problem using a company owned by an avowed Christian supremacist whose own employee said in a sworn declaration 'views himself as a Christian crusader tasked with eliminating Muslims and the Islamic faith from the globe,' adding that Prince's companies 'encouraged and rewarded the destruction of Iraqi life.' (Schakowsky in Scahill 28/6/2010).

Due to this perception and the elaborated incidents, the company is seen as one of the most controversial PMCs (Bennett 2/4/2009). The further development of the company, however, cannot be understood independently from its deployment to Afghanistan and Iraq which is outlined in the analysis of this study.

Appendix III: Task Orders for the Security Service Contract of the DS (2004)

The relevant task orders of the contract (2004) were to provide:

"341 trained personal protective services personnel and other personnel such as pilots and vehicle mechanics, four aircraft, 3,659 flight hours, nine leased vehicles, maintenance and spare parts for the vehicles, personal body gear, and weapons-related items. The contract performance period was ultimately extended to September 10, 2006, and total contract costs increased to \$332,472,205. During the contract extension, the number of personal protective services personnel more than doubled, specialists such as translators and intelligence analysts were added, and training and contractor-furnished equipment increased."

(Source: United States Department of State /Special Inspector General for Iraq Reconstruction 2009: 6).

Appendix IV: Tasks Orders of the WPPS II Contract (2005)

The relevant task orders of the WPPS II (2005) were:

- Task Order 1: "To establish a local program management office in the Washington D.C. area" (for each deployed company).
- Task Order 6: "Personal protective services in Baghdad and Ramadi and for static guard services at the Baghdad WPPS camp, and it did provide for air services in Iraq" (competitive, awarded to Blackwater).
- Task Order 8: provision of security in a certain area of Iraq (each participating company got an area, Blackwater got Al-Hillah, Najaf, and Karbala).
- Task Order 10: "Aerial support in Iraq" (competitive, awarded to Blackwater).

(Source: United States Department of State /Special Inspector General for Iraq Reconstruction 2009: 6, 7).

Appendix V: Excerpts of the Hearing about Contracting in Counterinsurgency

Statements of Congressmen Davis, Tierney and Henry:

Congressman Davis:

“[Contractors] offer invaluable surge capacity and contingent capabilities Federal agencies can’t afford to keep in-house [...]. The presence of so many foreigners, particularly so many with guns, offends some Iraqis and gives others a pretext to incite mistrust and violence. To paraphrase the title of one recent study of the phenomena, Iraqis fear they can’t live with private security contractors. U.S. personnel believe they can’t live without them.”

(Source: US House of Representatives Committee on Oversight and Government Reform 2/10/2007: 13).

Congressman Tierney:

“The fundamental question here ought to be whether or not it makes sense to contract out in the first place. [...] The idea [of the Abrams Doctrine] was that we wouldn’t go to war without the sufficient backing of the Nation. Outsourcing has circumvented this doctrine. It allows the administration to almost double the force size without any political price being paid. We have too few regular troops and if we admitted that and tried to put in more, the administration would have to admit it was wrong in the way it prosecuted this war originally. [...] If we relied more on our allies, they would have to share the power, share the decision-making and share the contract work. So, private contractors have allowed, essentially, this administration to add additional forces without paying any political capital.

Very little conversation goes into the number of people [...] in the private sector that are being killed or injured on a regular basis. Figures by one account are some nine individuals a week losing their lives in the service of private contracting that are not counted in the figures of casualties reported to the American people. [...] We have far too few Government managers to oversee the situation. We need more accountability. We need to clarify and update our laws. We need to restore the Government’s ability to manage any such contracts.”

(ibid: 17)

Congressman McHenry:

“Blackwater has protected dozens, if not hundreds, of Members of Congress including myself and members of this committee when they travel to Afghanistan and Iraq. I, for one, am grateful for their service. Not one single Member of Congress has been injured nor killed under Blackwater protection.”

(ibid: 18).

Appendix VI: Questioning of Prince

Congressman Kucinich: "We have been informed that one of your first contracts in Iraq was for the Coalition Provisional Authority. Ambassador Bremer awarded you a contract to protect officials and dignitaries. That was at the end of 2003, toward the end of 2003. It may have been in August. Is that right, sir?"

Mr. Prince: "I believe it happened right after the U.N. facility in Baghdad was blown up by a large truck bomb. Yes, sir, they then feared for the U.S. officials."

Congressman Kucinich: "Now that contract was no-bid, is that right, sir?"

Mr. Prince: "It was off the GSA schedule."

Congressman Kucinich: "Can you tell us how you got this no-bid contract?"

Mr. Prince: "Off the GSA schedule is considered a bid contract, sir. The GSA schedule is a pre-bid program kind of like catalogue of services that you put out, like buying something from the Sears catalog."

Congressman Kucinich: "Did you talk to anyone in the White House about the contract?"

Mr. Prince: "No, sir."

Congressman Kucinich: "Did you talk to anyone in the Congress about the contract?"

Mr. Prince: "No, sir".

Congressman Kucinich: "Did anyone, to your knowledge, connected with Blackwater talk to anyone in either the White House or the Congress about the contract?"

Mr. Prince: "Not to my knowledge, no."

Congressman Kucinich: "Did anyone in the DeVos Family talk to anyone in the White House or the Congress about the contract?"

Mr. Prince: "No."

Congressman Kucinich: "As a taxpayer, do you think it is proper that no other companies were allowed to bid?"

Mr. Prince: "That, I am not aware of, sir. It is a requirement, Government officials had. They came to us, asked if it could be fulfilled. I don't know what other companies they went to as well. I am not aware of that."

Congressman Kucinich: "In 2004, the State Department awarded Blackwater a \$332 million task order under its diplomatic protection contract. Are you familiar with that?"

Mr. Prince: "I am familiar about the amount. I know that we transitioned over to working for the State Department from the CPA. I am not sure exactly when that happened."

Congressman Kucinich: "Thank you, sir. According to the Federal Contracting Data base, you didn't have to compete for that one either, is that correct?"

Mr. Prince: "Again, I believe they continued that off the GSA schedule which is an approved contracting pre-bid method."

Congressman Kucinich: "Who at the State Department were you dealing with in order to get this contract?"

Mr. Prince: "I don't know. I presume it was under the diplomat."

Congressman Kucinich: "Excuse me?"

Mr. Prince: "It was under the Diplomatic Security Service. That is the folks at State we were working for."

Congressman Kucinich: "Now SIGIR³³ reported that this was a no-bid contract. Was SIGIR incorrect? It was a no-bid contract or not?"

Mr. Prince: "I am not sure how they are defining bid or no-bid. In my understanding, they used, we used pricing off the GSA schedule, and I believe that is considered, regarded as a biddable contract."

Chairman Waxman: "Will the gentleman yield to me?"

Congressman Kucinich: "I yield to the Chair."

Chairman Waxman: "It is on the GSA schedule. Did they come to you to put your offer of services on the GSA schedule? Did you go to them? How did that get on the GSA schedule?"

Mr. Prince: "Oh, most companies in our kind of work have a GSA schedule. We have a GSA schedule for target systems. We have a GSA schedule for——"

Chairman Waxman: "So you offered services and you are on the list of services that they can purchase?"

Mr. Prince: "Yes, sir."

Chairman Waxman: "You don't know if anybody was on the list for these kinds of services?"

Mr. Prince: "Oh, I am sure there are lots of companies that are."

Chairman Waxman: "For some of the services. Did you go to anyone else or did anyone else from the Government go to you to ask you to do the work?"

Mr. Prince: "I don't know, sir."

Chairman Waxman: "Did they ask you to see if you could put together this operation and then they put you on the schedule?"

Mr. Prince: "I would say we were present in the country already. We already had significant presence with the CPA under a bid contract. I believe that contract was called Security Services Iraq. So we had a large presence of static guards and PSD kind of work for them. So I think they probably just wanted to transition from DOD work to Department of State work."

Chairman Waxman: "Thank you."

(Source: US House of Representatives Committee on Oversight and Government Reform 02/10/2007: 65 et seq.)

³³ Special Inspector General for Iraq Reconstruction.

Appendix VII: Conversation in the Course of the Hearing about Contracting in Counterinsurgency of Chairman Waxman, Congressman Davis and founder and CEO of Blackwater Prince

Congressman Davis: “If we are paying too much and getting too little, what is the answer? More troops in Iraq? Less safe troops? Less safe diplomats or less safe Members? I mean this is the trade-off. [...] the alternatives, none of them are attractive when you are in a war zone.”

Chairman Waxman: “The point I want to make, you raise that very essential question, what do we do if we don’t have enough troops there? Well, I think we have to look at the fact that this isn’t a short term war. We have been there 5 years. It looks like we may be there another 10 years. Even General Shinseki said we need more troops. At some point, you have to make a decision in this battlefield, in this war. If we don’t have enough troops to do the job, then we should get more troops. But if we are going to go on the cheap to get private contractors, we are not on the cheap at all. It is costing us more money, and I believe it is costing us problems, causing us problems with the Iraqi people. Let’s let the military replan this. It seems to me we have had bad decisions from this administration too much of the time in handling this whole war, planning for it adequately and staffing it adequately with the U.S. military. They are the ones that ought to be doing this job.”

Congressman Davis: “Mr. Chairman, I understand, but let me just say troops that are there are not paid to protect civilians. That is not what military troops are trained for. I went through officer basic course in Georgia at Fort Benning. I went through basic training at Fort Ord. That is not what troops are trained for when they go out into the battle zone. This is a unique responsibility. It is through the State Department, not the Department of Defense. As we will hear from the next panel, our troops are not, at this point, being trained to do this kind of work. This is a different kind of process. Now if we want to train them to do that, we can do that, but that hasn’t been the history throughout the last 50 years of the military that I am aware of. So we then have to decide from a cost-benefit perspective. I think this is an important conversation to have, but to date that is not the contractors’ fault. I think our argument would be with the State Department.”

Chairman Waxman: “[...] but Blackwater and the private military recruit from our military. So these people are trained to the job that Blackwater and other private military people are asking them to do. So why can’t the military do it? I think they could do it if we had enough military personnel.”

Congressman Davis: “Sir, I would like Mr. Prince to respond, but I am sure they retrain them. They don’t just take raw recruits out. Could I just ask him to respond?”

Prince: “Yes, sir. There was an earlier allegation about companies like us raiding the ranks of the Special Operations community for this kind of work, and the GAO report found that, yes, they are getting out and working for companies like us, but they are not getting out at any higher rate than they ever did before. So, they are, instead of becoming a financial analyst or an accountant or some other kind of businessmen, they come to work for companies like Blackwater, but they are not getting out at any rate higher than they ever did before.”

(US House of Representatives Committee on Oversight and Government Reform 02/10/2007: 75 et seq.)