The Use of Battlefield Contractors in Post-Occupation Iraq

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Over the past couple of years private security companies (PSC) have become the subject of many media headlines. The main reason they have attracted attention is that they seem to act like modern-day mercenaries. One of the most widely discussed events has been the use of private contractors in the now infamous...
Abu Ghraib prison. Another much debated event is the Nisoor Square incident in Baghdad on 16 September 2007 when at least seventeen civilian bystanders were killed by operatives from a private security company called Blackwater. These are not the first scandals that have happened, nor will they be the last, but they have sparked a heated debate about the role and legal status of battlefield contractors.

However, it has been said that these companies have become “absolutely essential” to interventions in places such as Iraq. It also became clear immediately after the invasion in 2003 that Iraq would become “the biggest market for private military services – ever”. At the same time it was even proposed that it is impossible for the US military to go to war without civilian contractors. Their use in Iraq is so extensive that they constitute the largest private security force ever employed by the US in wartime, as well as the second largest foreign armed group in the country.

But what is actually known about this force? The simple answer is: not much. We can assume, however, that the US and the UK are probably the countries most willing to use private corporations in their military operations. Other countries do use them, but not to the same extent. It would, therefore, be interesting to find out if there are any qualitative differences between the uses of such organisations by these two countries. Identifying differences will increase our understanding of why and how states decide to outsource what have long been considered vital military functions. Even though there is considerable debate about the subject, it is very US-centric.

4 See, for example, Washington Post. 2007-01-27. “Abu Ghraib Officer Faces Court-Martial”.
5 See, for example, Washington Post. 2007-09-17. “State Dept. Convoy Attacked in Baghdad, Sparking a Shootout”.
6 Use of the term ’contractor’ here means: “…persons or businesses, to include authorized subcontractors that provide products or services for monetary compensation”. It is important to point out that PSCs are a specific type of contractor companies that offer a more limited range of services. Cf, Headquarters Department of the Army. FM 3-100.21 (100-21) Contractors on the Battlefield January 2003, 2003 p 1–2
10 Washington Post 2007-12-24 “Warnings Unheeded On Guards In Iraq”
11 See for example Singer, Peter W.: ”Outsourcing war in Iraq”, in Foreign Affairs, March/April 2005, p 119-132
This is understandable, not only because they are the biggest employer of civilian contractors, but also because debate in the US about their use goes back to the 18th century.\textsuperscript{12} For this reason there is a requirement for us to extend our knowledge and understanding to include other countries.

The purpose of this article is to shed some light on the British use of private security companies in an effort of contrasting that to the current focus on the US. The exercise is thus one of a comparison of the British and American governments’ use of private security companies in Iraq and is primarily intended to illustrate that private security companies are used in different ways by different countries (i.e., the UK) and also that the relationship between these companies and governments differs. With this purpose in mind we have identified three categories allowing for a structured and focused comparison.\textsuperscript{13} These categories will be used to illustrate the variations observed in the use of private security companies by different countries, arguing that it is actually not a general and cohesive phenomenon we see today. The aim is to try to establish some sort of pattern that may be more general than that specifically related to American conditions. It is emphasized, however, though that the possibility of generalising our findings to other countries may be difficult and perhaps even impossible. However, we believe that it is important to offer an alternative to prevailing US-centric analyses on the use of contractors on the battlefield. Ours is therefore an exploration into un-charted waters.

The empirical basis for this paper is founded primarily on secondary sources, but some information is gathered from a close reading of official documents and reports, such as the Special Investigator General for Iraq Reconstruction (SIGIR) and the United States House of Representatives Committee on Government Reform of the Minority Staff Special Investigations Division.

**Analytical Framework**

Our analytical framework consists of three main categories, each of which contains two subordinate factors. As already stated, some factors are derived from existing literature, while others are chosen because we believe that they will show important aspects of PSC use. The first of these categories is *background factors*, which situate the use of PSC:s in their politico-strategic context. The first factor is the extent of past and present military contracting in the


case country. How has the country aligned itself to privatization in the military sector and in which areas have military contracts been used? This is important to know in order to understand where the use of PSCs originates from, and whether the use of PSCs fits the wider use of military contractors. This factor has been studied before by several researchers, although not yet as thoroughly as it should be. While James F. Nagle offers a very long – term perspective on overall government contracting in the US, this is not particularly useful when it comes to PSCs, as he deals mainly with defence procurement. Another historical description comes from Singer, but his is also quite brief, as are most others found in PSC literature. These descriptions rarely take up specific government policies but instead look at where traditional mercenaries, and later on PSCs, have been used and by whom. One exception comes from Avant’s *The Market for Force* in which she looks more thoroughly at the cases of Sierra Leone, Croatia and the US in order to see the effects of privatization in states with different capacities. Wulf has also described US and UK cases of military privatization, but yet again only briefly. While the focus of this study is on current rather than past practices, we still believe that this factor must be brought up and discussed in order to understand the basis of military contracting on which PSCs are commonly thought to be based. The second factor considered here is the general strategic situation in which the two countries find themselves and in which the government in question awards contracts to private companies. The second category is the quality of use. The factors under this category will dig deeper and give more detailed and specific information behind these numbers. As the UK has not been investigated as a specific case before there is not very much information readily available, let alone good research in this specific issue. The situation is somewhat better when it comes to research on the case of the United States so there is ample room for an interesting comparison of the two in this sense. The first factor investigates which government departments employ PSCs and whether they have done so before, or do so in other settings. The second factor will study the services these

18 Op. cit. footnote 3
companies provide and will also look for reasons why such services are used. While the two categories above concentrate on military contracting and the use of PSCs, the third category investigates the industry itself. There will be two factors in this category: the first one examines national regulation of the industry and the second will investigate the industries in the respective countries as such. It is interesting to look closer at national regulation because it can be assumed that major government policies shape the phenomenon as such to some extent. For example, policies affect the possible clientele and the services the industry may or may not provide. This is also a factor often discussed in previous research; Andrea Schneiker and especially Deborah Avant have investigated this aspect of PSC use. The British industry has also been active in this debate. Schneiker writes that while the security industry has become an increasingly important actor it still remains more or less unregulated as neither the debate nor regulatory mechanisms have kept pace with the growth of the industry. The question of regulation is closely tied to several other issues, such as accountability, legitimacy, respectability and cooperation between clients and PSCs. It is also possible that the legal vacuum is a conscious choice by the governments, as there may be benefits for all participants as long as regulation remains loose.

Turning to the industries in the US and the UK it is clear that research so far has concentrated on the benefits of contracting PSCs. Aspects such as the main clientele, size and the history of the industry will be examined under this factor.

The analytical framework consisting of these categories and the factors that fall within them are shown in Table 1. It will be applied in a way that brings together our empirical findings and the analysis. However, before that, the unique setting of Iraq is discussed to give the reader a better and more comprehensive picture of the situation in which these companies are being used.

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Iraq – Unforeseen Opportunities for Contractors

Iraq has become an environment with previously unforeseen opportunities for contractors and especially PSCs to operate in. The reason for the extent of private activity in the country has been attributed to two separate elements: bad planning based on poor US political assessments and large amounts of money available for reconstruction. Either of these two on their own would have increased the number of PSCs in the country, but the combination of the two brought about an explosion in the market.\(^22\)

Bad planning is evident when one considers that US plans for the post-war situation were for humanitarian relief, not for a state collapse. The Office for Reconstruction and Humanitarian Assistance (ORHA) was established for a “relatively short-term relief and reconstruction endeavour, developing strategies to ameliorate expected humanitarian crises and potential disasters, such as oil-field fires”.\(^23\) It did not have the capacity to respond to the consequences of the invasion, which caused many parts of the Iraqi community, such as government structures and the army, to simply cease to exist. By early summer 2003 the nascent insurgency had begun to assert itself and attacks against the coalition rose to about 30 per day. The US military was not ready for this increasing resistance, causing yet another inter-related problem.

The amount of money used on reconstruction is considerable. Since 2003 different actors have used or pledged over USD 100 billion to aid Iraq in its recovery.\(^24\) This figure is probably not as representative as it sounds, because the US alone has so far committed USD 400 billion to the creation

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of a democratic Iraq. Only about USD 40 billion of this has gone to reconstruction and stabilization.\textsuperscript{25} Furthermore, 39.6\% of one reconstruction fund – that has used USD 18.32 billion in Iraq – has gone into “security and justice”.\textsuperscript{26} Obviously, much of the money available was used in attempts to patch up the consequences of bad planning. By June 2005 the Department of Defense (DoD) had handed out 149 “prime contracts” to 77 contractors in Iraq with a total value of approximately USD 42.1 billion. One company alone, Halliburton, won 52\% of the total contract value.\textsuperscript{27} In a survey by the Special Investigator General for Iraq Reconstruction (SIGIR), nine contractor firms were questioned and all answered that on average they use 12.5\% of total reconstruction costs on security.\textsuperscript{28} As reconstruction money from the DoD goes to these construction firms, who in turn employ PSCs to provide security costing billions of dollars, a large market for PSCs was created. At the moment, there are 630 companies on contract to the US government, with personnel from more than 100 countries,\textsuperscript{29} and at least 200 foreign and domestic PSCs working in Iraq.\textsuperscript{30} While not directly comparable, these numbers suggest that a significant percentage of companies involved with the rebuilding of Iraq are PSC.

When it comes to the exact number of contractors in Iraq, there are no precise figures available. The LA Times has cited “State and Defense Department data”, which gives a total of 182 000 contractors: 21 000 from the US, 43 000 from third countries and 118 000 from Iraq.\textsuperscript{31} A slightly more recent number cited by Defense Secretary Robert Gates is 137 000.\textsuperscript{32} A figure of 130 000 contractors and 7 000 private security contractors working for the DoD has been cited elsewhere,\textsuperscript{33} giving more credibility to the higher number as it would include all contractors in the country working for government and commercial clients. While it may be impossible to say exactly how many contractors are present


\textsuperscript{26} Special Investigator General for Iraq Reconstruction (SIGIRb). Quarterly Report to the United States Congress, 2007b p 63-64

\textsuperscript{27} United States House of Representatives Committee on Government Reform Minority Staff Special Investigations Division. Halliburton’s Questioned and Unsupported Costs in Iraq Exceed $1.4 Billion 2005, p 1

\textsuperscript{28} Special Investigator General for Iraq Reconstruction (SIGIR). Fact Sheet on Major U.S. Contractors’ Security Costs Related to Iraq Relief and Reconstruction Fund Contracting Activities, p. 2, 2007d.

\textsuperscript{29} The Guardian. (2007-08-01). “A very private war”.


\textsuperscript{32} Washington Post. (2007-09-26). “Gates Unhappy With Contractor Oversight”.

in Iraq at the moment, our best guess is that the number is significantly above Gates’ 137,000 and possibly as high as 182,000. It must also be noted that these numbers are problematic, because it is not specified what is meant by “a contractor”. Obviously, the definitions used in the figures above are wider than those of a private security contractor, and also encompass other areas such as logistics, interpreting, maintenance and reconstruction. As the first figures show, most contractors are locals hired by foreign companies or governments.

Of the 137,000 – 182,000 contractors in the country, about 40,000 might be private security contractors. Another source citing a US government report from 2006 says 48,000, but even here most of the contractors are Iraqis. “First World” nationals, namely British, American and Commonwealth citizens make up about 5,000, while “third country” nationals make up about twice that number, 10,000. These include Fijians and Ghurkhas, as well as citizens of recent conflict zones such as Colombians and Serbians. This would leave over 25,000 private security jobs for Iraqis. When these 40,000 are compared to the 7,000 employed by the DoD, the largest contractor in the country, it becomes clear that most of the PSC:s are employed by commercial companies, who form the largest market for the industry. Of course it is possible – and even likely – that the DoD does not include sub-contractors in this total, meaning that a large number of the remaining PSCs actually work indirectly for the DoD.

A History of US and UK Military Contracting

It is sometimes maintained that defence privatization in the US is a neglected “… subplot of the wars of the post-9/11 period” or more broadly, a scheme of Republican and neo-liberal politicians. While it may be true that the Bush administration populated the Pentagon with “ideologues” and “former corporate executives”, military contracting in the US is not limited to the Republican Party or to the 20th and the 21st centuries. While staffing the highest positions in the Department of Defense with executives of major contractors is nothing new, the Democrats were often described as “war-mongers” during the Cold War.

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36 *The Independent*. 2007-06-03.
38 Ibid.
War, with their demands for more and more defence expenditure. When it comes to the origins of military contracting, they go far back, beyond the War of Independence, to the French and Indian War (1754–1763), when American businessmen provided supplies for British troops. This trend has continued since, even during the peace after the independence of the colonies, and has only deepened. There is even an Army manual on contractors, which begins with the words “[c]ontractors have always supported our armed forces.” Therefore, US contracting can hardly be considered a product of the Republican Party, let alone the Reagan or even Bush administrations. What is new, however, is the use of private armed security operatives, often referred to as Private Security Companies (PSCs).

An official US document, titled Circular A-76, describes Federal policy about procedures for determining whether commercial activities should be carried out by Government agencies and personnel, or outsourced to commercial organisations. The idea behind the policy is that the Government should not attempt to compete with its citizens, and that a competitive enterprise system is the primary source of national economic strength. However, limits were set for reliance on the commercial sector. Some functions described as “inherently governmental” were to be kept in-house. These were “so intimately related to the public interest as to mandate performance only by Federal employees” and included “activities performed exclusively by military personnel who are subject to deployment in a combat, combat support or combat service support role”. It was originally presented by the Bureau of the Budget Bulletins in 1955 and reissued in 1957 and 1960, before it was renamed OMB Circular A-76 in 1966. It was further revised in 1967, 1979 and 1983. However, it was not until the 1996 revision that it was really noticed. Not much competition had taken place before this, and there was little pressure from the executive branch to comply with the circular’s directives. It was the Democrat Vice-President Al Gore who was responsible for increased use of A-76 as part of his “Reinvent Government” programme in 1996. Two years later government agencies were required to present their commercial activities,

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41 Op. cit. footnote 12, p 11-12
42 Op. cit. footnote 12, p 12
43 Headquarters Department of the Army, p 1-1
46 Ibid.
which were then subjected to competitive sourcing. While increased efficiency might have been the perceived reason, the real motive was probably the large budget cuts, which hit the DoD especially hard, as it had many large and expensive ongoing force modernization programmes. Cost reductions were the only way to keep these alive, forcing a reduction in operating and support costs wherever possible. The DoD has estimated savings generated by competitive sourcing at around 40 per cent. However, even if it is widely believed that cost savings were achieved, these could not be accurately identified in reality.47

A-76 is important because it represents an ideology that has dominated the spending of government agencies during the past decade. It could also help to explain the increased use of PSCs, but only if they were involved in the civilian sphere of activities, rather than the military sphere. The latter would have been impossible according to 1999 A-76 criteria, and highly questionable under the more recent 2003 revision of A-76.48 Even if the criterion for inherently governmental activities has greatly expanded in the newest revision of A-76, the use of PSC:s is still questionable under the new rules. For example, an inherently governmental activity involves “[s]ignificantly affecting the life, liberty, or property of private persons”.49 However, “guard and protective services” were listed as commercial activities in the 1999 revision,50 and the 2003 revision extends this list by stating that a number of aspects including the use of lethal force “…do not prohibit contracting for guard services, convoy security services, pass and identification services, plant protection services, or the operation of prison or detention facilities, without regard to whether the providers of these services are armed or unarmed.”51

Even if the criteria for inherently governmental activities have changed, the A-76 guidelines have been seen as far too narrow for use by complex organisations with requirements that are difficult to quantify. This has led to new initiatives over and above competitive sourcing, such as strategic sourcing. Strategic sourcing is a far broader approach, which has one feature that is of especial interest to us: it “…can involve functions or activities, regardless of whether they are considered inherently governmental, military essential, or commercial.”52 This takes the stated ideology a step further, removing any limits on its practical application. However, while

49 Office of Management and Budget, p A-2 2003
50 Office of Management and Budget 1999 Attachment A
51 Office and Management and Budget 2003
52 Op. cit. footnote 47, p 12
contracting became possible, contractors did not necessarily have the authority to actually fulfil the services they were wanted for; even if, as Singer claimed, they had in practice stepped beyond their boundaries, many contracted stepped beyond their boundaries, many contracted tasks can be argued to fall under the inherently governmental category.\textsuperscript{53} Granting such authority to contractors required further changes of legislation. For example, participation by contractors in combat had previously been prohibited.\textsuperscript{54} This prohibition was overruled by an interim rule passed to the Federal Register on June 16, 2006, which came into effect immediately. The Defence Federal Acquisition Regulation Supplement’s (DFARS) regulation on contractors was changed, as it now authorized contractors in general, and PSCs in particular, to use deadly force in self-defence “…when necessary to execute their security mission to protect assets/persons, consistent with the mission statement contained in their contract.”\textsuperscript{55} This was a major change in US rules of engagement, and the fact that it was introduced without any public debate makes it even more interesting. Then again, the 2003 revision of A-76 had, more or less, already made possible the contracting of protection services which might require the use of deadly force, as seen above.

The policy processes required firstly to make it possible to privatize government services and then to authorize contractors to fulfil these services are far too complex for the scope of this study. What we hope to have shown with the few examples above is that the US tradition of military contracting is actually older than the US itself. Additionally, the ideology of privatising government functions has existed on paper for over half a century. What is more recent, however, is the increased application of this ideology, combined with the removal of important restrictions, previously part of the policy. If A-76 only became central in 1996, it must be considered a relatively new phenomenon. Finally, this all shows that military contracting is a policy above party politics, as both the Democratic and Republican parties have been involved in military contracting. Then again, the fact that the current Bush administration has effectively doubled expenditure on contractors of all sorts to USD 400 billion\textsuperscript{56} suggests that, even if the overall trend in contracting has been upwards, the current administration may have taken a leap forward rather than a step. Between 1994 and 2002 US-based military contractors received over 3 000 contracts worth over USD 300 billion from the DoD.\textsuperscript{57} This

\begin{itemize}
  \item \textsuperscript{53} Op. cit. footnote 9, p 16
  \item \textsuperscript{54} Washington Post 2007-12-24.
  \item \textsuperscript{55} Federal Register. 2006. June 16, 2006 Volume 71, Number 116
  \item \textsuperscript{56} New York Times. 2007-10-24. “State Dept. Use of Contractors Leaps in 4 Years”.
  \item \textsuperscript{57} Op. cit. footnote 16 p 8
\end{itemize}
shows that the military sector, being more privatized than most other public sectors,\textsuperscript{58} is at the core of government contracting. Private contractors accounted for half of defence-related jobs in 2000,\textsuperscript{59} and have almost certainly increased since then. It has been argued that the US government has become dependent on contractors, the argument being that without them it would lack the capability to carry out large-scale operations.\textsuperscript{60} In other words, these contractors have become essential to American military forces.\textsuperscript{61}

When it comes to differences between US and UK privatization, it is sometimes argued that in the US ideology is an important factor behind military contracting, while in the case of the UK it is said to be more due to budget constraints.\textsuperscript{62} This is a claim that needs to be considered further. Before Tony Blair became Prime Minister in 1997, nearly two decades of Conservative government had cut the defence budget by 30 per cent.\textsuperscript{63} Approximately 25\% of the defence support budget, GBP 2.2 billion, was already “market tested”.\textsuperscript{64} The new Labour government did not change previous policies, despite their promises to do so.\textsuperscript{65} Neither did privatization stop with the change of government. Instead, the use of private contractors increased.\textsuperscript{66} By 2000, the amount of “market tested” Ministry of Defence (MoD) “annual business” had risen to 45\% or GBP10 billion.\textsuperscript{67} There were also plans to allow private participation in all areas in the MoD.\textsuperscript{68}

In the UK, not only has privatization of wider government functions gone further than in the US,\textsuperscript{69} but the contracting of some military functions has also gone further. A RAND study in 2001 found that, even if the DoD has “implemented similar internal reform and contracting process initiatives” in the provision of support

\begin{itemize}
\item \textsuperscript{58} Op. cit. footnote 17 p 179
\item \textsuperscript{60} Op. cit. footnote 3, p 25
\item \textsuperscript{61} Op. cit. footnote 7, p 57
\item \textsuperscript{62} Op. cit. footnote 17, p 169
\item \textsuperscript{63} Reid, John: “The Armed Forces and Society”; in \textit{RUSI Journal Apr 1997}, Vol. 142, No. 2
\item \textsuperscript{64} Uttley, Matthew: \textit{Contractors on Deployed Military Operations: United Kingdom Policy and Doctrine}, 2005 p 5
\item \textsuperscript{65} Op. cit. footnote 17, p 182
\item \textsuperscript{66} Op. cit. footnote 64, p 5
\item \textsuperscript{67} Ibid, p 7
\item \textsuperscript{68} Op. cit. footnote 16, p 168
\item \textsuperscript{69} Op. cit. footnote 22, p 9
\end{itemize}
services, it has “lagged behind the MoD in outsourcing and privatization initiatives.”

This is quite surprising, as until 1980 “a key tenet of UK defence policy was that the MoD and the armed services provided directly all the services for which they were responsible and owned the main resources necessary to provide those services”. This “in-house self-sufficiency” was seen to be essential for operational effectiveness, a view which differs from the more long-standing US approach. As privatization by the MoD only began about 28 years ago, it must be considered to be quite a recent phenomenon. The DoD began this process much earlier; the American process that later became A-76 began in 1955, while MoD Market Testing first saw the light of day in the 1980’s – almost 30 years later.

Although UK defence privatization in the 1990s was more limited than in the US, the MoD gave directives in 2003 to “maximise the use of contractors” for logistic support to military operations in Iraq. It has been suggested that approximately GBP11 billion of the annual GBP 24 billion UK defence budget goes to industry for support services and the provision, operation, and maintenance of equipment. Additionally, services such as research, airbases, dockyards, army bases, recruitment, training, military satellites and payroll have been outsourced. This list is not comprehensive: virtually all sectors of MoD activity involve contractors.

Contracting is also visible in the Iraqi campaign; the MoD has estimated that about 25 per cent of the total force deployed consisted of contractors after combat operations began in 2003. Clearly the use of contractors is common in the MoD. However, what is remarkable is that, while many military reforms have been similar in both countries, those in the US have raised much public scrutiny and debate, while those in the UK have not. This is also the case with private security. As Dominick writes, “…in the UK the Government’s engagement with the private security sector is driven by need, the scope of that engagement determined by what the Government will permit”, while in the US “…the limits of the sector’s engagement

71 Op. cit. footnote 64 , p 4
72 Op. cit. footnote 70, p 103
73 Op. cit. footnote 16, p 168
74 Op. cit. footnote 64, p 8
75 Ibid p 10
76 Ibid p 10
77 Ibid, p v
are defined by what the Government thinks it can usefully contribute”. This indicates a different mindset behind the use of PSCs, which may well also be the case for wider military contracting. Whilst it is impossible to be sure, it appears that the MoD is not as dependent on contractors as the DoD.

If we now return to the different motives for contracting, it becomes difficult to prove that there is any difference between the UK and the US in terms of the underlying logic behind military contracting. Similarly, it becomes difficult to prove that the underlying reason behind contracting is not budget constraints. The evidence points in the same direction, towards increased privatization. As it has been argued that, today, privatising and outsourcing are “the favoured strategies for the transformation of the relationship between the public and the private sector”, this is hardly surprising. There are differences between the two, however. It seems that, for some reason, UK contracting has more limitations than that of the US. One possible reason is ideological; while A-76 offers evidence of an American ideology that continuously expands the boundaries of contracting, there seems to be no British equivalent. Even if there is more debate in the US, contracting restrictions seem to be much stronger in the UK.

The Strategic Situation in Iraq

At the end of March 2008 there were about 154 000 US soldiers in Iraq, including the 30 000 troops that arrived as a part of the “troop surge”. The surge enabled the mounting of Operation Law and Order, which by the end of 2007 has arguably contributed to the improved security situation in Iraq. However, the post-surge number has begun to decrease after the recent news; military commanders now want to “pause” the troop level to 140,000 in order to be able to assess the security situation before ordering any further withdrawals.

The British presence in Iraq is also in decline, but to an even larger proportional extent compared to that of the Americans. The invasion of Iraq involved approximately 45 000 British troops and thus constitutes the third-largest foreign deployment since the Second World War. After the invasion, 8 600 troops stayed in the southern part of the country. Withdrawals began in early 2006 with plans to reduce the British military presence to 4 500 by the end of 2007 and to 2 500 in the spring of 2008. Whilst Prime Minister Brown had previously hinted that a complete withdrawal might take place in 2008, the recent developments in Basra have made this unlikely.

78 Op. cit. footnote 16, p 2
79 Op. cit. footnote 17, p 169
81 The Economist 2007-12-06. “Tarnished Glories”.
In public statements as well as now in practice, the UK withdrawal from Iraq has been condition driven and, based on local conditions: political, economic and not least, security developments. Withdrawals are therefore only possible if the Iraqi government can manage on its own, a condition still uncertain. But at the same time as official statements have denied that political and financial pressure influences withdrawal, an overstretch of the army has increased this pressure.82

These figures show the different realities faced by the US and the UK in Iraq. As one US soldier in Iraq put it: “[T]he problem with Iraq is that we can’t stay, we can’t leave and we can’t fail.”83 If the UK is now slowly withdrawing, then these countries clearly have different stakes at play in Iraq. The roles of the US and the UK have been different from the beginning: the US has had the overall responsibility for reconstruction, while the UK has only had a regional responsibility.

**Government Departments that Employ Private Security Contractors**

At the moment, US contracts for private security are awarded by the Department of Defense and the Department of State (DoS). There has been little reliable data on the amount of money spent on PSCs by these two, because the principle agencies responsible for reconstruction have not collected complete data on the use of PSCs – as noted in 2006 by the Government Accountability Office (GAO).84 However, a general impression can be gained from the study mentioned above. According to this, the cost of security for private companies runs at an average of 12,5% of the total costs of each contract. If those contracts are issued by the DoD, as most of them are, then the DoD pays those expenses. This means that billions of dollars have been spent on PSCs by the DoD. A recent newspaper article citing USA Spending, a project funded by the US government, writes that the DoD has spent USD 2.7 billion, and the DoS USD 2.4 billion, on private security in Iraq since 2003; this would put total spending at about USD 5.1 billion. Additionally, DoD is said to employ 17 companies in Iraq with a total contract value of USD 689.7 million.85 The total annual costs of the DoS were USD

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82 Hammick, Denise: “Iraq Withdrawal will be condition driven, says UK armed forces minister” in *Jane’s Defence Weekly* August 01, 2007


519,938,634 in 2007.\textsuperscript{86} This means that DoD spending is not significantly higher than that of the DoS.

The DoD currently employs about 7,000 security contractors,\textsuperscript{87} while the DoS used a total of 2,522 private security contractors in May 2007 – by October the number had risen by 100.\textsuperscript{88}

The British case is very different as the Ministry of Defence does not have any contracts with PSCs in Iraq and according to Des Browne, the Secretary of State for Defence, does not plan to have any.\textsuperscript{89} It should be noted that this policy is not limited to Iraq; although there was one such contract in Afghanistan, it was quite small in monetary terms amounting to GBP 35 000,\textsuperscript{90} and even this contract seems to have ended.\textsuperscript{91} There is a clear difference between the US and the UK armed forces. While the DoD is the largest contractor for private security in the country, the MoD has no contracts there. The MoD policy is interesting especially as a crisis has developed between the government and the military, arising from insufficient spending versus increased expectations.\textsuperscript{92} Unlike the US, the UK has not used PSCs in any attempt to ease the burden on its military. Despite this the MoD has not employed PSCs in order to solve the crisis, a clear difference from the US policy.

When it comes to other UK departments, DFID security needs have been provided by contractors managed by the The UK/Foreign and Commonwealth Office (FCO) since June 2004. The FCO is therefore the only UK department that issues contracts in Iraq. The FCO had contracted private security to the value of GBP 30 400 000 in 2006/07, and 2007/08 spending probably reached similar figures.\textsuperscript{93} Companies working under these contracts employed a total of 371 personnel in Iraq at the end of November 2007.\textsuperscript{94}

The fact that the British military does

\textsuperscript{86} House Committee on Oversight and Government Reform. Statement of Ambassador Richard J. Griffin: “Private security contracting in Iraq and Afghanistan 2007a p 6.

\textsuperscript{87} BBC News. 2007-09-26 “US to Review Iraq Security Firms”.

\textsuperscript{88} Op. cit. footnote 86, p 6


\textsuperscript{92} The Economist. 2007-12-12. “Ticking time bomb”


not employ PSCs might in part help us understand why the US use of PSCs is much more debated and questioned than that in the UK. While privatization in the civilian sector is more accepted, the military and defence are much more sensitive issues. As we have seen, the use of private security-related contractors by other departments has not been debated as much, even if it has been long-standing, as in the case of the Diplomatic Service (DS), which has used security contractors since the mid-1980’s.  

**Services Provided**

DoS has employed private security contractors in the past and, in this sense, the practice in Iraq is nothing new. The DS, the security and law enforcement arm of the DoS, has done so since the mid-1980’s, while personal protection services began to be contracted in Haiti in 1994. What is new is the scale of such use. Additionally, Iraq has been described as the first case where the US extensively uses private companies for security in a hostile environment.  

The use of PSCs by the DoS was justified by the need to deploy civilians to Iraq as soon as possible when the embassy was opened in mid-2004. The hostile environment characterized by a security vacuum was seen to necessitate the use of contractors. Another reason was flexibility, as it was possible to find experts to fill this vacuum. However, this short to medium-term solution has now become a long-term one, which was probably not the intention. This is a counterpart to the surge capacity, which enables the government to obtain expertise quickly. Such capacity is best for short-term use, while long-term needs should be met by in-house capabilities. Additionally, it would be in the interests of the DS to employ locals instead of expatriates.

The DoS security contractors “perform a narrow range of tactical duties”, including protection of officials and politicians as well as foreign heads of state. There are almost 1,000 personnel working in the US Baghdad Embassy and regional locations around the country. DS civilian contract personal security specialists (PSS) are used to provide security for these personnel, as well as for visiting dignitaries; they conducted 3,073 escort missions in Iraq between 1 January and 18

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95 Op. cit. footnote 86, p 2
96 Ibid, p 2
97 Op. cit. footnote 3 p 1
99 Ibid, p 234-235
100 Op. cit. footnote 86, p 4
September 2007.\textsuperscript{101} As the PSS contractors are employed under Worldwide Personal Protection Services (WPPS) contracts, they are considered to be employees of the DoS and, therefore, enjoy the same immunity from prosecution as other such employees in foreign countries.\textsuperscript{102} When the number of PSS contractors (1,502 under WPPS) is compared to the number of DS agents in the country, the latter is clearly insufficient and is overshadowed by the former. At the beginning of October 2007 the number of such agents was about 36,\textsuperscript{103} but the number has more than doubled after the events of 16 September 2007. Additionally, at least a third of the 100 – strong mobile elite SWAT team has been deployed to Baghdad.\textsuperscript{104} The DoS currently has contracts with three companies who have geographically divided tasks. DynCorp provides personal security in northern Iraq, Triple Canopy in the south and Blackwater in Baghdad and Hilla.\textsuperscript{105} The FCO currently have contracts with three companies to provide mobile security and static guarding in Iraq\textsuperscript{106}: ArmorGroup, Control Risks Group (CRG), and Garda World (after Kroll Security International (KSI) was sold in December 2006 to Garda World Security Corporation\textsuperscript{107}). CRG has previously provided protection for UN officials in Iraq. Similar and other services have previously been obtained from contractors elsewhere by the FCO.\textsuperscript{108}

It is more difficult to gain information about the services provided to the DoD, but it is assumed that they are more related to the protection of convoys and locations than personal security. Protecting individuals can be considered to be less military than protecting convoys and the latter task may also be more suitable for the military. Even so, the DoD is actually responsible for the protection and security of civilians under DoD contracts, but not for employees or contractors of other US

\begin{flushleft}
\textsuperscript{101} Ibid, p 8-9
\textsuperscript{103} Op.cit footnote 98, p 208
\textsuperscript{104} Washington Post, 2007-10-21. “State Department Struggles To Oversee Private Army”.
\textsuperscript{105} Ibid.
\textsuperscript{108} Op. cit. footnote 16, p 168
\end{flushleft}
agencies or civilian contractors. For example, the U.S. Army Corps of Engineers (USACE) provides protection to civilian convoys in Iraq; but to make matters more complex, USACE itself is also protected by PSCs, as will be shown later.

**National Regulations**

The regulation of the private security industry (PSI) is very different in the US when compared to the UK. The US is one of the few countries that actually has national regulation while the UK regulatory environment has been described as informal. Considering that companies from these two countries are thought to dominate the market for PSC services, the national regulation systems in these two countries are important even in a global context.

In the US the main law regulating the sale of military equipment and services is the US Arms Export Control Act of 1968, and more specifically the International Traffic in Arms Regulations (ITAR) that came into force in 1998. ITAR is a two-step licensing system managed by the DoS Office of Defense Trade Controls, which requires any individual or business offering defence services to foreign clients to register with it and to apply for a license before signing a contract related to these services. This becomes a tool for foreign policy, as contracts with NATO members, Japan, Australia and New Zealand do not usually require a license, while contracts with countries under a UN or US embargo do not usually receive a license. According to Schneiker, ITAR suffers from two drawbacks. First, neither companies involved, nor other observers have a clear picture of how the process works, as the DoD and DoS offices involved vary from contract to contract. Second, parliamentary oversight is weak as the DoS has to inform Congress only in cases where contract value exceeds USD 50 million. In practice it is easy to avoid this by splitting up contracts into several smaller ones. Furthermore, once a license is granted there are neither mechanisms to monitor it nor requirements to report about it.

There is also another way for PSCs to sell their services. This is the DoD’s Foreign Military Sales (FMS) Program. No license is required as the client is always the DoD. The PSI also favours FMS contracts as they save time and the government

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109 Stöber, Jan: “Contracting in the Fog of War... Private Security Providers in Iraq: A Principal-Agent Analysis”. In Thomas Jäger, and Gerhard Kümmel, (Eds.) Private Military and Security Companies – Chances, Problems, Pitfalls and Prospects. 2007 p 127


always supports such contracts. Behind these two pieces of US legislation are national foreign policy interests.\textsuperscript{113} It is possible to deny US PSCs permission to sign foreign contracts if they go against US interests, while the use of PSCs by the US Government is made easier, thus offering the government the option to use them. As Avant writes, this use has sometimes been called ‘foreign policy by proxy’, PSCs thus constitute a new flexible tool for the government. What is more problematic is that this tool is flexible because it does not use the usual processes and evades congressional checks on executive power.\textsuperscript{114}

Schneiker sees both ITAR and FMS, despite their shortcomings, as improvements on international legislation and models for national legislation in other countries.\textsuperscript{115} The fact remains that the government retains ultimate control over whether services can be offered or not. As Avant describes, ITAR has often been ad hoc because different offices with different agendas can influence licensing.\textsuperscript{116} This further ties the industry and the government together, making sure that companies do not offend the government in any way that would endanger future licenses and contracts. In Avant’s words, the US Government buys influence over PSC values.\textsuperscript{117}

UK laws regulating the export of arms do not extend to services\textsuperscript{118} and the only existing legislation concerning PSCs comes from the 1870 Foreign Enlistment Act, described as impossible to enforce by the 1976 Diplock Report.\textsuperscript{119} In the 1990’s the British firm Sandline was accused of selling arms to conflict-ridden Sierra Leone despite an existing UN arms embargo. This “Arms to Africa” scandal, also known as the “Sandline Affair”, began the process that led to the FCO publication of a Green Paper on \textit{Private Military Companies: Options for Regulation} in February 2002.\textsuperscript{120} The FCO obviously did not want to ban the industry, but instead proposed regulating it. Six different options were suggested, each with its own pros and cons. Almost six years later, not one of the first five options,

\begin{footnotes}
\item[113] Ibid, p. 414-415
\item[115] Op.cit.footnote 20, p 415
\item[116] Op.cit.footnote 111, p 425
\item[117] Ibid, p 428
\item[118] Ibid, p 438
\item[119] Simmons, David: “Occupation for Hire – Private Military Companies and their Role in Iraq” in \textit{RUSI Journal June 2004}
\item[120] Foreign and Commonwealth Office. \textit{Private Military Companies – Options for Regulation}, 2002 p 20
\end{footnotes}
ranging from banning to a general licence, have been implemented. The situation therefore more resembles the sixth option, that of self-regulation. The UK PSI has established a voluntary code of conduct, the Charter of the British Association for Private Security Companies (BAPSC).\(^{121}\) The BAPSC, started in February 2006, is also quite a novel invention. On top of agreeing to the terms contained in the charter, all members are evaluated before they are allowed to join the association.\(^{122}\) Additionally, in contrast to the US equivalent, the International Peace Operations Association (IPOA), the BAPSC accepts only British PSCs.

The UK policy towards PSCs has been called one of “plausible deniability”.\(^{123}\) The fact that none of the options contained in the Green Paper has actually been accepted as policy supports this view. As there are no formal rules, the relationship between the government and PSCs is ad hoc.\(^{124}\) As national legislation mirrors the interests of its authors,\(^{125}\) it is expected that legislation is a rational choice between various options, and that the best option is selected and implemented as policy. While the US sees the PSI as a tool useful for the government,\(^{126}\) the UK’s PSI is more an export industry among other export industries. A strong PSI can be used by the home country and also be an asset in this sense. This would explain why the industry remains unregulated, as stricter regulations might harm the industry and its competitiveness. It has been argued that UK foreign diplomacy has been increasingly driven by economic interests;\(^{127}\) it would be interesting to know if this is the case with the UK PSI and the government’s reluctance to interfere. It seems that in some cases the government has actually aided PSCs in acquiring contracts with foreign countries,\(^{128}\) thus strengthening this interpretation.

In the words of Schenker: “as long as the benefits of non-regulation surpass the economic and political costs for governments, the enforcement of national legislation will remain difficult.”\(^{129}\) This may apply to the

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124 Ibid, p 438

125 Op.cit. footnote 20, p 418

126 Op.cit. footnote 111, p 422


UK, but the US case demonstrates that regulation may also give benefits that can be difficult to attain with non-regulation. This is particularly so if the government is also a consumer of these services, as demonstrated in the US case by Avant.130

**Essentials of the UK and US Private Security Industries**

To understand the UK regulation system it is necessary to understand that, while the US Government has used military contractors for centuries, UK citizens have offered such services for at least as long. In the case of PSCs, the British history of private security goes back centuries, as Britain has allowed its citizens to sell such services abroad.131 Britain is also one of the last countries in Europe to abandon the use of mercenaries; they employed them in the Crimean War (but never had a chance to use them).132 Before the 1990’s most of the PSCs involved in foreign military operations had their roots in Britain.133 In contrast, the largest PSCs in the US have traditionally had limited roles abroad.134

The first real PSC, WatchGuard International, was founded in 1967 by David Stirling, the founder of the British Special Air Service (SAS), beginning a tradition of ex-SAS involvement in many British PSCs.135 WatchGuard offered a way for the UK Government to support countries that it would have been too politically costly to support otherwise.136 In this sense the use of PSCs as an extension of foreign policy did not differ much from the current US use; but today, the situation is quite different in these two countries. One possible explanation for this is the Sandline Affair, which attracted enough public attention to put the PSC phenomenon in the limelight. This single event, combined with the previous self-reliance of the British armed forces, may well form the cornerstone of the reasoning behind the UK Government’s reluctance to employ PSCs.

The Sandline Affair also affected the UK PSI, as it helped to define the sector. Today British PSCs do not want to be branded as mercenaries, encouraging them to differ from Sandline as much as possible. This

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130 Op. cit. footnote 111, p 424
131 Op. cit. footnote 16, p 29
132 Op. cit. footnote 120, p 20
133 O’Brien, Kevin:”PMC’s, Myths and Mercenaries: The Debate on Private Military Companies”. in RUSI Journal February 2000, p 60
134 Op. cit. footnote 120, p 8
135 Op. cit. footnote 133, p 60
also means shunning any association with combat.\textsuperscript{137} Even the industry itself admits this, and makes a distinction between PMCs and PSCs, Sandline obviously falling into the former group.\textsuperscript{138} This is good business sense, as companies rely on a good reputation, and anything that jeopardizes this would be a threat to future contracts and therefore the future existence of such companies. Respectability is especially important for UK firms, as they rely on commercial clients.\textsuperscript{139} This, in turn is a consequence of the fact that in contrast to the US, the UK Government has few large contracts with PSCs.\textsuperscript{140} This is not necessarily a bad thing for UK companies’ business, as the profit margins are good in the commercial world.\textsuperscript{141} Nevertheless, it makes a rough division of PSI’s possible: the US PSI has more government contracts and the UK PSI has more private contracts. Such a division also affects the companies and their appearance. Many British companies are smaller and therefore faster to react than the larger US companies; they are larger because of their dependence on larger government contracts.\textsuperscript{142} After 9/11 new tasks such as translation, intelligence and protective security services became increasingly important, in addition to the previously contracted military capabilities. While this had opened up new markets for PSCs,\textsuperscript{143} there were only three British PSCs of notable size before the invasion. Today there is a significant British presence of at least twenty-three companies in the previously US-dominated sector.\textsuperscript{144} This increased presence and the importance of the UK PSI is a sign of exponential growth caused by opportunities in Iraq. The annual revenue of British PSC:s was GBP 320 million in 2003, but grew to more than GBP 1.8 billion in 2004.\textsuperscript{145} The FCO spent less than GBP 50 million on PSCs in Iraq in 2004,\textsuperscript{146} underlining the small share of UK government spending. Against this background it is interesting to note that the US actually spends more money on UK PSCs than the UK government. It suffices to give one example; the single largest

\textsuperscript{137} Op.cit. fotnote 22, p 11
\textsuperscript{138} Op.cit. fotnote 19, p 241-242
\textsuperscript{139} Ibid, p 247
\textsuperscript{140} Op.cit. fotnote 22, p x
\textsuperscript{141} Ibid, p 19
\textsuperscript{142} Ibid, p 17
\textsuperscript{143} Ibid, p 9
\textsuperscript{144} Ibid, p ix-x
\textsuperscript{145} War on Want. Corporate Mercenaries – the threat of private military and security companies, 2007, p 4.
\textsuperscript{146} TheyWorkForYou.com. “Written Answers Wednesday 14 November 2007”.
private security contract in Iraq is actually held by a British firm and was awarded by the US Army. Aegis Defence Services Ltd first won a three-year contract worth USD 293 million in 2004. When it was renewed, the value increased to USD 475 million and involved about 1,000 men to protect the USACE. However, Aegis does much more, including intelligence gathering and monitoring of security convoys, other functions privatized by the DoD.\footnote{Washington Post. 2007-07-01. “In Iraq, a Private Realm Of Intelligence-Gathering”.


This different clientele also offers a tool to control the industry. As discussed previously, the US has additional leverage on its own industry as it is a major customer. This is not the case for the UK with regards to the UK industry, as seen above. Instead, UK companies may seek self-regulation in order to gain legitimacy, which in turn is important with not only commercial and government clients, but also with international organizations. Greenstock has argued that legitimacy will double the strength of a PSC operating in an unstable environment; without legitimacy, its strength can be halved. Legitimacy is not only political and legal but is also tied to physical danger.\footnote{Op.cit. footnote 22 , p 16} It is possible that this self-imposed legitimacy is also a factor behind client companies’ preference for UK rather than US firms.\footnote{Ibid.} Other factors are hinted at by Donald. UK firms may have a more low-key cultural approach; their personnel are more experienced and more accustomed to a degree of individual responsibility.\footnote{\textit{Ibid.}} Additional factors could be the Sandline Affair and UK PSIs self-definition as PSCs instead of PMCs and the fact that, as most UK companies are employed by PSCs operating in an unstable environment; without legitimacy, its strength can be halved. Legitimacy is not only political and legal but is also tied to physical danger.\footnote{Op.cit. footnote 22 , p 16} It is possible that this self-imposed legitimacy is also a factor behind client companies’ preference for UK rather than US firms.\footnote{Ibid.} Other factors
contracts instead of those from the UK Government. In the longer run, nobody knows. Donald believes that Iraq is a bubble that will burst. According to him, the main issue is whether or not the Iraqi authorities will permit the use of PSCs, because they would like to take responsibility for their own security and give work, currently done by expatriates, to Iraqis.\textsuperscript{151}

The future of the US PSI in Iraq looks similar. At some point reconstruction work must end, thereby reducing the number of reconstruction contractors in the country. The DoS will no doubt still require security services for quite some time in the future, and the plans to establish a more permanent military presence in Iraq will mean that at least some service firms will stay in the country. The main factor here is the security situation. If it gets better, the need for private security decreases.

\textbf{Conclusions}

This paper has examined the use of PSCs by the US and the UK in order to learn more about primarily the British practices and new developments in what is called military privatization.

The main results of this study have been interesting. The study began with an overall look at military contracting and discovered that, even if US policies of military contracting have longer roots in history, the UK is not far behind in some areas, such as the provision of support services. The difference comes in the privatization of those activities seen as inherently governmental. While the US has pushed the boundaries, there seem to be more restrictions on the UK use of contractors. Similarly, while contracting appears to be the favoured contemporary strategy to transform the public-private relationship, we could not find any evidence of a clear British strategy that could be compared with \textit{A-76}, which has dominated government spending in the US for almost five decades. Nevertheless, the amount of privatization in the UK was found to be surprisingly large, even surpassing that of the US in wider government functions and some areas of providing service support to the military. Military privatization occurred after 1980 in the UK, which makes the time span of these developments shorter than in the US. It was also found that the US is increasingly reliant on contractors, and may not be able to carry out large-scale operations without them. This is probably not the case in the UK, where the military relied on “in-house self-sufficiency” until the 1980’s. However, although the trend seems to be the same – towards greater privatization – it was concluded that this may go further in the US than in the UK.

The fact that the two countries investigated both stand at the forefront of military privatization, but have differing policies towards employing PSCs, is a clear indication of the existence of deeper

\textsuperscript{151} Ibid, p 19-20
underlying factors. One such factor may be different political environments. It is likely that the Sandline Affair, mentioned earlier, increased the political price of the use of PSCs by the UK military. The fact that the DoD is the largest single user of PSCs in Iraq is strongly contrasted by the MOD’s policy of zero contracts. This is a clear difference between the US and the UK governments. Unlike the US, the UK has not used any PSCs in attempts to ease the burden on its military. This may suggest that budget constraints are a larger factor in the UK than in the US, as the UK military has been louder about its insufficient budget than its counterpart in the US. The fact that the British military does not employ PSCs might also in part help us understand why the use of PSCs is the subject of much more debate in the US than it is in the UK.

This contrast shows that the use of PSCs is far from being limited to the traditional military sphere – in fact, most employers of PSCs in Iraq are private companies. But while the DoD is the single largest user of PSCs in Iraq, it was found that – monetarily – the DoS is not far behind. DoS policies of outsourcing personal protection services pre-date Iraq, but it was also found that its own DS agents were without doubt numerically insufficient for the needs in Iraq. The UK picture is very different; the FCO is the only contracting UK department in Iraq. A related finding was that not only are the services provided to DoS and FCO more or less the same, but these tasks did not, for the most part, differ much from those undertaken by similar companies in developed countries and non-conflict situations. The context and the security situation does however shape the way these tasks are actually carried out.

Military privatization in post-invasion Iraq has reached an important milestone; the ratio of soldiers to contractors has reached one-to-one, possibly for the first time ever in a conflict setting. Similarly, Iraq was found to be the first case where the US uses private companies extensively for security in a hostile environment, indicative of different policies in Afghanistan and further underlining the abnormality of Iraq. Use of security contractors was justified as being a “short to medium-term solution” that became a long-term one. The US government was simply not prepared for the post-invasion requirements. This gives further support to Donald’s arguments on the factors that caused the contracting boom in Iraq – namely, bad planning and loose cash.

There are clear differences in the regulation of the private security industry in the two countries investigated. The US is one of the few countries that actually have national regulations, while in the UK the arms export regulations do not extend to services. The industry was mainly self-regulating and while different options for regulation were considered after the Sandline Affair, nothing has been implemented. Instead, the BAPSC has established a charter, which seems to verify the claim of self-regulation. The UK stance towards its PSI has been described as ‘plausible
deniability’ and it was suggested that, while the UK government is not a major customer of its industry, it still benefits from it as an asset. The export revenues of the industry grew sixfold between 2003 and 2004, making it a considerable export industry. Previous experience shows that UK diplomacy has at times been driven by economic interests, and a hypothesis is that this might be the case with PSCs and the unwillingness to regulate them; as long as the UK’s industry remains unregulated, there are few limits to exporting such services.

So what has this study achieved? The main aim was to increase our understanding of how states use contractors to provide core military functions by examining two cases of contractor use in post-occupation Iraq. The results show that privatization is not only increasingly used by the US and UK Governments, but also moving into new areas. As shown, there are similarities as well as differences between the cases, of which MoD resistance to employing PSCs is particularly interesting, especially as the MoD has privatized most other functions. At the same time, non-defence government departments in both countries were found to be much more involved in the use of PSC:s than is often expected, making the discussion of placing the phenomenon in context even more relevant. Although this research has shed light on new practices, it must be emphasised that that there is still much that is not yet known and remains to be researched.

Selected Reading


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