

AcCOUNTability by Numbers: Neoliberal Governmentality & the Case of PMCs Iraq

ELMOFTY, Mohamed

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Declaration

I declare that this thesis is solely my work and has not been submitted, in whole or in part, for any other degree or at any other institution. Except where stated otherwise through in-text citations along with a list of references, this work is entirely my own.

Abstract

This thesis examines the impact of neoliberalism on the accountability of private military companies (PMCs), using the Iraq war as a case study and contextualising it within the work of Michel Foucault. The purpose of using Foucault's work and applying a Foucauldian discourse analysis (FDA) is to demonstrate the transformation in the concept of accountability. The purpose of this thesis is to show that under neoliberalism, PMCs are not escaping accountability as the literature would suggest. Instead, the concept of accountability is renegotiated as a result of neoliberal logic that deciphers non-economic relations using free-market principles. In other words, democratic and legal accountability are transformed to accountability by numbers. By adhering to a certain code and scoring high on performance measurement standards, PMCs are considered accountable and behaving responsibly.

This thesis's contribution to original knowledge lies in the following idea: by outlining the essential elements of a Foucauldian analysis of neoliberalism and using it to analyse PMCs in Iraq, the research proposes that the existing literature on the accountability of PMCs, which suggests that they are not held accountable for their actions, misses a crucial point. It then offers new methods for holding them accountable. This is to say that the application of market values to judge non-market domains (security) ascribes a new meaning to accountability.

Our methodological approach utilises FDA to analyse accountability from three different perspectives: accountability to the employer, accountability for the actions taken and, finally, accountability to the employees. The thesis devotes a separate chapter to each aspect and uses FDA to analyse how, in each case, accountability is renegotiated under neoliberalism.

Extending that analysis to PMCs in Iraq shows two things that are in line with the events that took place during the 2003 war. First, even though there are some non-definitive guidelines for how PMCs should behave accompanied according to some rules and regulations, they were left with a form of self-regulation rather than operate under direct state command. Second, the way PMCs are held accountable for their actions as agents of the market is based on an economic approach that utilises performance-based assessment. By using metrics and scores to identify how well a contractor has abided by the code of conduct and determine accountability and liability, a form of non-democratic accountability through data analysis is established as part of the neoliberal mode of governance. With that, Foucault's work demonstrates its limitations

as it does not go beyond offering an excavation of the essence of neoliberalism and the evolution of the security apparatus.

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What is Accountability and how does it Emerge as a Key Concern in PMC Literature?

The goal of this thesis is to study how the accountability of private military companies (PMCs) changes under neoliberal modes of governance. We contend that the literature on PMC accountability misses a crucial element with respect to how accountability is understood. As we will demonstrate, the study of PMC accountability is focused on either stating that the modus operandi of these companies rests on evading accountability due to a lack of strong legal frameworks, or that such frameworks exist but mechanisms of enforcement are needed for them to be effective. This thesis posits that accountability is not evaded nor circumvented; instead, it is renegotiated as ‘accountability by numbers’, in line with neoliberal logic. Our key question for this research is what impact does neoliberalism/neoliberal modes of government have on PMC accountability? We address this question first by exploring the definition of accountability and addressing it in relation to PMCs. As part of the analysis and its original contribution, this thesis applies the work of Michel Foucault to explain its reformulation.

Specifically, this thesis will focus on Foucault’s work analysis of neoliberalism by looking at his lectures on neoliberalism and biopolitics. Additionally, this thesis will implement Foucauldian discourse analysis (FDA) to examine the empirical sources that the thesis uses to demonstrate the changing nature of accountability under neoliberalism. As such, the first thing we need to do is to explore what accountability means from different perspectives: democratic and legal.

The Iraq War remains a complex phenomenon and there have been numerous attempts to demonstrate how the war was motivated by profiteering and the creation of a free-market economy modelled after the US economy. It is not the intention of this thesis to go down that path. While there are truths in these claims, our objective is to examine the transformation of

PMC accountability from its democratic and legal definitions to accountability by numbers. In other words, viewing accountability through the neoliberal lens has turned it into a type of performance that can be measured, making it a results-oriented phenomenon. The consequence of this approach is that the definition of accountability has also shifted. If military and security duties are carried out by non-state agents to whom state laws and regulations do not apply, then how can PMCs be held accountable? How can we identify who is to be held responsible for breaches or violations of the law?

By using the economy to examine non-economic domains, neoliberalism assigns a new meaning to the definition of accountability. PMCs are considered accountable through numbers, metrics and codes of conduct. As a result, democratic accountability is replaced with non-democratic accountability through data analysis. When accountability is examined from the perspective of metric scores and performance-based assessments, PMCs can, therefore, be seen to be acting responsibly. Despite government reports on the misconduct or poor performance of PMCs in Iraq, the solutions proposed by the different bodies have been concerned with enhancing the reporting and monitoring tools to achieve proper oversight.

Accountability: What's in a Word?

The term *accountability* might seem self-referential when brought up about governments or corporations. The idea of answerability and responsibility is an integral feature of functioning democracies. Olsen (2015: 425) suggests that accountability “involves establishing facts causality and responsibility, formulating and applying normative standards for assessing conducts and reasons given, and building and applying capabilities for sanctioning inappropriate conduct.” This is a good general description of what accountability means. Similarly, democratic accountability, in the same vein, describes the right to hold representatives, governors, institutions, etc. to certain measures and standards. Goodhart (2011: 46-7) describes democratic accountability as “the right of citizens to hold their rulers to

account”, further adding that “choosing, authorising, and controlling political decisions, and, therefore necessarily, those who make them, is the core of democratic accountability”. One of the hallmarks of neoliberalism is personal responsibility, the idea that one must take care of oneself and one must take responsibility for one’s actions. Even though this is expressed on the individual level, the idea itself applies as the grid for the whole of society, as well as for the political and economic domain. According to Jemlin (2011: 3), the concept of democratic accountability “refers to the many ways in which citizens, political parties, parliaments and other democratic actors can provide feedback to reward, or even sanction, officials in charge of setting and enacting public policy”.

Thus far, we have established that democratic accountability is not only about holding decision-makers responsible for their deeds but also having the ability to control the decisions they make. As the thesis looks at the concept of accountability holistically, it must also look at other dimensions to it, specifically legal accountability. As the name suggests, legal accountability refers to the consequences enforced by states for violations of the law. Brunée (2005: 4) describes legal accountability as “focused upon the consequences of breaches of international law that are attributable to an international actor”.

There is an obvious theme that arises from the discussion of PMCs in terms of the rolling back of government and the rolling out of marketisation policies in Iraq. A lot of work has been undertaken in examining the role of private contractors in Iraq and elsewhere, and, equally, on studying neoliberal policies and their impact on Iraq. We argue that by studying the effects of security marketisation and PMCs in Iraq in relation to accountability through the lens of a Foucauldian analysis, something will be revealed that has not been addressed in the literature. This point, briefly explained, is that PMCs have not been seen as accountable and acting responsibly through the prism of a neoliberal form of governance. By constructing arguments

on how PMCs can be held accountable or that they were not held accountable for their actions in Iraq, the point that PMCs were and continue to be held accountable according to the standards of neoliberal governance has been overlooked.

As a starting point, three essential texts by Foucault have been used in this thesis to develop the theoretical framework and methodology: *The Archaeology of Knowledge*, *Society Must be Defended* and *The Birth of Biopolitics* (2008). Using these texts will allow us to examine Foucault's analysis of the genealogy of the state and the insertion of the "economy" into the political (Peters, 2007: 166). By doing so, we aim to present a theoretically informed analysis that will show: first, the importance of Iraq as a case study, and second, how and why PMCs were allowed to operate the way they did in Iraq. This will be a good place to explain why we have resorted to the use of Foucault and what Foucauldian analysis can tell us about neoliberalism and PMCs.

Background and summary of the problem

Before we begin identifying the research questions at the centre of this thesis and explain the use of our framework, we will offer a brief summary of the problem at hand and our initial hypothesis. It is important to note the following at this early stage: The Iraq War is a multifaceted case with many dimensions as to why it was launched, which factors played a more critical role in shaping the war, who benefitted the most from it, Iraq's oil, regime change, the role of neoconservatives, think tanks, and many other factors that add to the complexity of the case study. This thesis does not go into depth about the origin of the war or discuss at great lengths all the factors that have been mentioned. Instead, the research will endeavour to cover these topics succinctly in Chapter III, which explains our case study and how it provides a holistic view of the situation before launching into our main focus of analysing the relationship between security marketisation and PMCs through our theoretical framework. This will hopefully highlight the originality and contribution to the knowledge of applying Foucault to

the study of PMCs in Iraq to understand how neoliberalism has impacted the domain of security and inscribed a new understanding of accountability.

The 2003 Iraq War, referred to at the time of the invasion as Operation Iraqi Freedom has become one of the most critical events in recent history. It signified a departure from the canons of traditional warfare (as we shall demonstrate) and had a profound impact on the role of PMCs and their accountability. Following the terrorist attacks of September 11th, Ritchie and Rogers (2006: 72) observed that there was an immediate reaction from senior US government officials, under the leadership of former US President George W. Bush, who, at the time, were “not convinced that al-Qaida had planned and conducted the attacks alone”. However, they were convinced that “a state had assisted the terrorists and that the state involved was probably Iraq”. The removal of Saddam Hussein, former President of Iraq, and the initiation of regime change were paramount to this War, and with this came a significant number of political and economic changes. As a result of the 2003 invasion, the US were able to remove Saddam from power and install an interim government that would be headed by the US to implement policies that would enact significant change.

The change the US government wanted to carry out came in the form of swift de-regulation and privatisation of state resources, which Naomi Klein referred to in her book *The Shock Doctrine* (2007) which adopted the term used to describe this process as its title. At a time when the country was under siege and the foreign occupation was in command of re-designing its political and economic landscape, a critical component of the war was also becoming privatised, namely the military and security services of the US, the subject of our thesis. This theme can be summarised as examining the use of PMCs in Iraq to assist the reconstruction efforts at an unprecedented scale. As Riemann (2014: 2) observed, unlike in the first Gulf War, when there was one contractor to every 10 soldiers, the 2003 war saw “the numbers of

contractors increased steadily up to the point that the number of contractors compared to U.S. soldiers reached parity in 2008". Likewise, Macleod (2015: 121) notes that following the invasion, "hundreds of new PSCs were set up or their existing activities expanded to take advantage of the emerging and extremely lucrative commercial opportunities in security and reconstruction activities". The surge of PMCs in Iraq brought to light questions concerning transparency and accountability and have raised questions about the morality of using private entities in situations involving combat. The literature on PMCs in Iraq has uncovered many issues about these entities, whether regarding the typology of private military and security companies or the types of services they offer. Additionally, the literature has revealed the legal dimensions and the status of PMCs under international and humanitarian law and approaches employed to hold them accountable for their actions. Such analyses have also examined the role of neoliberalism and attributed the marketisation of security as one of its hallmarks.

However, and this is what the thesis will attempt to explore, the literature, with respect to the aspect of accountability, has focused on the following idea. Due to neoliberal policies, PMC numbers have surged and became an important player in the domain of security, operating under weak legal constraints that are meant to hold them accountable. While the thesis agrees with that view in principle, we would argue that such a view reduces the complexity of neoliberalism and sidesteps an important conversation about its nature. Therefore, out of our main research question on how neoliberalism affects accountability, several sub-topics emerge. These include the ways in which neoliberalism affects and shapes the US government's policies and decision to utilise the services of the PMC contractors, as well as looking at the ways these companies may be held accountable under the neoliberal regime.

Theoretical framework: Engaging Foucault with PMCs

The use of Foucault serves as the theoretical framework and methodology through which we will examine the effects of outsourcing security to PMCs in Iraq and the impact that it has on

accountability. The subject of PMCs has never been raised by Foucault and it might be challenging if this thesis puts forth any claims about what Foucault's thoughts might be on the subject. However, as Keeley (1990: 96) observed, "Foucault does not theorize or hypothesize; he produces jarring interpretations that uncover and promote struggles. Therefore, we cannot 'deduce hypotheses' from his work; instead, we can adopt an attitude of fundamental contestability, apply Foucault's analytic devices, and explore possibilities". After conducting substantial research to identify the relevant literature, this thesis has found a significant number of works engaging Foucault in a variety of fields. These fields include feminism, post-colonialism, educational studies, and international relations (IR), among others. The reason for using Foucault as the theoretical framework is that there is a small but critical point that seems to have been ignored in the analyses.

The point which the thesis will explore can be summarised as follows: The Iraq War has revealed a gap in the dynamic of PMCs and their accountability, as Walter (2012: 2012) suggests, and we can observe that previous analyses have begun by criticising the government for outsourcing core military duties to private entities, and then proceeded to look for gaps in the international legal framework, thus proposing a new approach/method to hold PMCs accountable. While we may agree with such an approach, the problem is that it misses the point that has been revealed by Foucault, that neoliberalism is a mode of governance which attempts to "use the market economy and the typical analyses of the market economy to decipher non-market relationships" (2008: 240). By applying FDA to our subject, we can understand that the problem is not the lack of accountability or proper enforcement mechanisms. Instead, we can see that PMCs are, in fact, held accountable under the neoliberal framework of governance, which assigns a new understanding of accountability based on codes and regulations set by international bodies and institutions.

Among those attempts to hold PMCs accountable and establish a regulating body is the Montreux Document (2008), issued by the International Committee of the Red Cross and the Swiss Government, along with other participating states (including Iraq), as well as PMCs, NGOs and civil societies. This essentially outlines the “good practices” required of PMCs (2008: 7). Subsequently, an organisation known as the International Code of Conduct Association (ICoCA) has issued the International Code of Conduct for Private Security Providers (ICoC, 2010). This has been signed by several PMCs. They have become members of the ICoCA and are expected to conform to the code, which, as stated in its preamble, is meant to “build” on the “foundations” of the Montreux Document. Both the Montreux Document and the ICoC lay out the legal and governance framework, along with the standards at which PMCs are expected to operate. This has prompted the release of the ANIS/ASIS PSC.1-2012, the purpose of which is to standardise and operationalise the Montreux Document and the ICoC. This will all be developed more clearly and with more detail; however, as we have introduced our method of analysis, we now have a clearer picture of the state of private security business that seeks to redefine the definition of accountability through performance measurement and numbers.

In other words, Foucault’s interpretation of neoliberalism reveals that democratic accountability is overturned and replaced with non-democratic accountability through data analysis. From that perspective, if PMCs can carry out their missions and comply with the codes and score well according to the metrics assigned, they are seen to be acting responsibly and are, therefore, accountable. Although multiple incidents involving PMCs during the Iraq War led to the development of a code of conduct and performance assessment techniques, these did not have the desired effects and, instead, encouraged the PMCs to focus on and develop aspects and capabilities that are “easily assessed by government auditors”, as Krahmman (2017: 541) explained. To that end, our argument lies in demonstrating how and why these

mechanisms are not producing the desired effect with respect to accountability, as this misses the point of what neoliberal governance does by inscribing a new meaning to it.

We argue that a Foucauldian analysis demonstrates a gap in the literature caused by a lack of engagement with the ontological nature of neoliberalism, which Foucault describes as an “art of government” (2008: 295). We argue that the literature on accountability begins from the premise that legal and humanitarian infractions committed by PMCs in Iraq require the presence of a framework to hold them accountable for their actions. Simply put: the analyses of PMC accountability are more occupied with studying the symptoms (made manifest in the form of legal transgressions, an inability to follow orders, a lack of attachment to a cause, and other issues, which we will discuss at length in the next chapters) and, consequently, neglect the cause itself, which is the political/economic system that has allowed these entities to exist and thrive.

The use of Foucault in such a case provides us with a unique insight into not just what neoliberalism means as a concept but it also offers a genealogy of the state, which allows us to see how neoliberalism interacts with sovereignty and the population. As we have mentioned earlier, by reading the three main texts we are using from Foucault as one continuous project, we propose a reading that essentially looks at how he traced the development of the modern state and the development of the security *dispositif* (2007: 20), which has eventually led to the development of what he termed a *neoliberal governmentality* (2008).

Elements of our Foucauldian framework

As the first chapter will present a more detailed account of the conceptual framework, let us now summarise the main points that make up our analysis and how the thesis plans on utilising them to examine our topic. First, Foucault (2003: 243) introduces the term biopolitics/biopower (he seems to use the two terms interchangeably) that refers to “a set of processes” that deal

with death and birth rates, morbidity, and other biological aspects, along with “a whole series of related economic and political problems” (Ibid). With biopolitics comes the development of “economically rational” mechanisms that deal with “various anomalies” (Ibid: 244). This marked the beginning of a new form of power, one that essentially uses economic rationality to deal with/control its subjects. Foucault then begins to look at the relationship between sovereignty, security and the population, and the evolution and development of disciplinary techniques. As mentioned, the security dispositif, or apparatus, is essentially a technology that is “exercised over a whole population” (2007: 25), and what this technology involves is, contrary to disciplinary societies, the ability to manage populations rather than resort to disciplining each individual. As Foucault (2007: 69) explains:

“(the) law prohibits and discipline prescribes, and the essential function of security, without prohibiting or prescribing, but possibly making use of some instruments of prescription and prohibition, is to respond to a reality in such a way that this response cancels out the reality to which it responds – nullifies it, or limits, checks, or regulates it.”

Taking our cue from him as to what the security dispositif denotes, we aim to build on that and to present our argument through this frame. The tracing of disciplinary societies is critical in highlighting how the security apparatus functions and, in the meantime, it clarifies how, as societies transition from implementing discipline to security, there is also a transition from discipline and sovereignty, which can be said to be a quintessential element of security that Foucault referred to as “freedom of circulation” (2007: 71). As Bigo (2008: 97) explains, this freedom is understood as “freedom of movement”, further elaborating that in contrast to sovereignty, which “capitalises a territory”, and discipline, which “structures a space and addresses the essential problems of a hierarchical and functional distribution of elements”, security designates a space that takes into consideration singular or multiple events that are happening or have a probability of happening. This ties into Foucault’s delineation of the structure of the security dispositif (something we will explore in more depth in Chapter I), which is that “*laisser-faire* is indispensable at a certain level”. This, as Bigo (Ibid) elucidates,

essentially means that “the appearance of a security apparatus is a correlate of liberal economy and society”. The importance of Foucault’s analysis is based on the fact that it ties together various elements and presents the outcome as a study of the genealogy of the state. As Dillon (2008: 167) suggests, Foucault is essentially “re-writing the history of the birth of liberal politics in a genealogy which focuses on the micro-practices of the rule”, indicating that Foucault is more interested in the “historically evolving material practices of liberal forms of rule.”

This becomes clearer in Foucault’s lectures on *The Birth of Biopolitics* (2008) (albeit a series of lectures on neoliberalism, not biopolitics). In these lectures, he presented a genealogy of liberalism, ordoliberalism and neoliberalism, detailing the evolution of a new “art of government”, which meant the “best possible way of governing” that also tried to “limit the exercise of government power internally” (2008: 27-8). For the introduction, we will skip over the details explained in Chapter I about the evolution of neoliberal governance and go straight to summarising the hallmarks of neoliberalism from a Foucauldian perspective. Perhaps one of the most important points for Foucault’s analysis of neoliberalism is that it is an art or mode of governance; a system that valorises the economic domain and proceeds to interpret and govern through that domain, as opposed to mainstream or Marxist analyses of neoliberalism as a hegemonic ideology.

Neoliberalism, specifically American neoliberalism, has a distinct mechanism, according to Foucault. This mechanism, described as “mode of thought” and “style of analysis” that takes into account the “theory of human capital”, broadens an economic analysis to incorporate other domains that have not been examined through it, and allows for the “possibility of giving a strictly economic interpretation of a whole domain previously thought of as non-economic” (2008: 219). The reason why American neoliberalism occupies a critical role is, as Cooper

(2008: 31-2) suggests, that unlike in France, where neoliberalism has been “engineered” by a few “elites”, in America, it represented something more important and had a bigger impact, primarily resulting from what was seen as an excess of state establishments and “big government”. That said, this does not imply that American neoliberalism was an ideologically motivated response, as that would run counter to a Foucauldian analysis. It does, however, offer a background that explains the manifestation of a new type of liberalism that was keen on limiting the intrusive nature of governmental practice.

In effect, Foucault deviates from the notion of neoliberalism as a strictly economic phenomenon and essentially frames it as an analytic tool. This interpretation is critical and has, as we will argue throughout this thesis, a significant impact on how discussions of PMC accountability in Iraq are framed. Even though the analysis does not offer an alternative framework for holding PMCs accountable, in contrast to the literature, we argue that by looking at neoliberalism as a form of governance that extends the economic style of analysis to non-economic domains, in this case, the military and security functions, it has confounding effects on the way we interpret how these domains function when subjected to this form of governance.

Our objective is to concretise the work of Foucault by demonstrating the parallels between his theorisation of neoliberalism and PMC operations in Iraq and the effects that this has had on our understanding of their seemingly elusive form of accountability. For example, going back again to Cooper’s¹ (Ibid: 33) analysis, she states that “Neoliberal economics dissolves the boundaries between private and public space, reabsorbing the intimate relations of the Fordist household into a space of market transaction”. Although we reject the first part of Cooper’s sentence as it reduces neoliberalism to a very simplistic phenomenon, we agree with the second

¹ This is to point out that in this work, Cooper takes a diametrically opposed approach to ours when using Foucault; however, she does provide an adequate description of the mechanisms of neoliberalism that, ironically, matches ours.

part as it draws a more accurate sketch of the neoliberal mechanisms in action. In the same vein, PMCs represent that niche in which the US decided to outsource some of its security and military capabilities, and so the act itself, of marketisation, serves as the “space of market transaction”. The implication of such a transaction when treated and viewed through the economic lens, and made clear through the use of Foucault, leads us to ask: How do we assess the outcome of it and how do we determine whether it has fulfilled what was required?

A Foucauldian perspective on PMCs in Iraq and neoliberal accountability

As mentioned, one of the legacies of the Iraq War was the implementation of neoliberal governmentality on an unprecedented scale, and attention was focused on the rise of PMCs. This allows us to examine the effects of this governmentality in that it demonstrates the reformulation of accountability. This has been evident in the establishment of the ICoC and the ‘Standard’ set by a ‘Management System for Quality of Private Security Company Operations – Requirements with Guidance’, herein referred to as ANSI/ASIS PSC.1², which calls for auditing and performance measurement as a means of enhancing accountability standards. MacLeod and Dewinter-Schmitt (2019: 56-7) provide a comprehensive analysis of the ICoC and the ANSI/ASIS PSC.1, pointing out that despite the initiatives taken through these proposed tools for monitoring PMC violations and making sure they adhere to and respect human rights in a manner that “fits within the larger international consensus on the corporate responsibility to respect human rights”, the problem remains that “even the most highly appraised PSCs are not adhering to many of the human rights requirements of the auditable standards”. Despite the ANSI/ASIS PSC.1-2012 being formulated “on the principles found in international human rights law and international humanitarian law (IHL)” and providing the

² The ANSI is an organisation “dedicated to supporting the US voluntary standards and conformity assessment system” (ANSI Website) and the ASIS (or ASIS International) is a “global community of security practitioners” (ASIS Website). The two organisations have jointly issued the ANSI/ASIS PSC1, which is, effectively, a way to execute the ICoC in a business-oriented approach.

tools for PMCs and their clients to apply the Montreux Document and “to provide demonstrable commitment, conformance, and accountability to respect the principles outlined in the ICoC” (2012: XVII), as MacLeod and Dewinter-Schmitt (2019) noted, it has not yielded the desired outcome.

Looking at the timeline of when the Montreux Document, the ICoC and the ANSI/ASIS PSC.1-2012 were adopted, in 2008, 2010 and 2012 respectively, such adoption has all taken place following heightened combat operations in Iraq. The most disturbing incident was the 2007 Nisour Square killings by Blackwater contractors, which we will cover in Chapter III. This stresses the importance of our case study because, as a result of what transpired in Iraq, we are able first to understand *why* PMCs were allowed to act in the way they did. Second, it sheds light on the way PMCs were held accountable. Finally, it shows the effects that security and military marketisation have had on the perception of accountability and in that process, exposing the lacuna in the literature. The literature this thesis is examining is not limited to PMCs; rather, this is an examination of the traditional IR and critical security studies, and how they view security, PMCs and marketisation. The reason we examine IR and CSS literature is that it allows us to highlight the strength of Foucault, and it helps de-centre Western-centric analyses by substituting it with the Foucauldian method of analysis.

So, what does traditional IR and CSS say concerning security and privatisation? Beginning with security, from the most traditional and dominant theories in IR from the perspective of the offensive, Taliaferro (2000: 128) notes that the inherent nature of states is to expand their capabilities beyond their neighbouring states “because only the most powerful states guarantee survival.” Whereas defensive realism adopts a different outlook, suggesting that anarchy in the international system, a state seeking to expand its capabilities to maximise its security, is, essentially, acting as a deterrent to surrounding states (Ibid: 129). Porter (2016: 240) notes that

a problem with realism as it is practised by certain states is that even though they are aware of the crippling epistemic uncertainty of the international system and its impact on their security, they demonstrate “unwarranted confidence in their own capacity to impose order on it”, referring to Donald Rumsfeld, former US Secretary of Defence. As such, the view of realism on security marketisation, as Wood (2013) observed, is that while there may be some reservations against the use of PMCs, it ultimately embraces it as “positively contributing” to security. This suggests that even though from a realist perspective, Max Weber’s notion of the legitimate monopoly of violence by the state, which is integral to the theory of realism, it does not necessarily indicate “the impossibility of integrating the PMC within existing theoretical security structures nor presumes a negative outcome as a result.” Realism, therefore, presents a straightforward analysis that takes the state as its point of analysis, and everything else is calculated based on what benefits the state; therefore, security marketisation, while not preferable, can produce a symbiotic relationship.

On the other hand, CSS, a label that covers various schools of thought, differs in its definition of security. Browning and McDonald (2011: 236) offer a general definition which they summarise in three points; first, the definition rejects and critiques the “epistemology, ontology and normative implications” of the orthodoxy of traditional approaches that are state-centric; second, they look at the “politics of security”, which is an examination of how security defines groups and designates group identities, instituting certain policies or giving credence to specific actors, given that security is “socially constructed and politically powerful.” Third, CSS look at the “ethics of security”, meaning, according to Browning and McDonald (Ibid), they focus on “the definition of ‘good’ regarding security”, and that has prompted discussion of re-defining security or offering a complete change in the vernacular and the way we understand the concept.

CSS can, therefore, be argued as being taking a heterodox approach, rather than being state-centric as it seeks to examine other intrinsic and extrinsic factors that contribute to (in)security. For example, as Dalby (2002: 4) observed, security now encompasses many other issues, including economic and environmental issues, civil society, human rights and “nonoffensive defense”. Dalby (Ibid) adds that feminism has also contributed to the field of CSS by calling for security “to be rethought to downplay the use of military force, to recognize... the limited applicability these strategies”. The fact that a new dialogue on security is looking at more issues that can affect the wellbeing of states and citizens is a positive aspect, as is, likewise, the call to “downplay” the use of military force. In that regard, how does CSS view the privatisation of security? What observations does it make with respect to accountability? Stavrianakis and Stern (2018: 5-6) explain that militarism, for the most part, has been occupied by the realist and traditional approaches to IR, resulting in certain issues becoming “re-coded” in security terms. These have taken place mostly post-Cold War, including the issue of private military, which has been “understood in terms of building a legitimate security sector, including defence forces.”

Other concepts that are pertinent to CSS include *securitisation*, which is a product of the Copenhagen School, as Jones (2011: 403) noted. The concept of securitisation is simply the idea of “how issues become discursively identified as new security ‘threats’”. The thesis will explore this issue in more depth. However, let us now consider the situation in which information came to light about PMCs in Iraq³. Following the logic of securitisation, the appropriate action would be to immediately raise the issue as a security threat, given that private actors who are sanctioned by the state to fulfil a variety of roles are committing acts that violate international law. While this would be a step in the right direction, at least theoretically, we

³ Abu Gharib Prison incident involving the torture of detainees and the Nisour Square killings. We will cover both incidents in the subsequent chapters.

would argue that this attempt does not address the main problem. The reason we mention this is because it helps us to think critically about the way CSS and its derivative concepts view the topic, thereby highlighting their limitations.

Following from that point, by choosing to situate the case within the work of Foucault, and by using his analysis to understand the logic of neoliberalism, we can see where the problem lies. What this mode of governance does is it seeks to frame subjects within economic parameters and uses market principles to examine them. This leads to a reformulation of the subjects and assigns a new form of understanding to them. As such, democratic accountability is reduced to non-democratic accountability through data analysis.

Structure of the thesis

By now, it should be clear that the purpose of this thesis is to examine the renegotiation of accountability through neoliberal modes of government while using Foucault as our tool. As such, Foucault's analysis of neoliberalism serves as the core of the thesis and, therefore, will be a running theme throughout the thesis. We propose the following structure to highlight the strength of our conceptual framework to bring out the original contribution to knowledge. The first chapter will outline, in as much detail as possible, the microstructure of our theoretical framework by using Foucauldian texts, including the ones mentioned at the beginning of the introduction, along with some of Foucault's other works. The chapter will also look at the Foucauldian scholarship and consider analyses developed by Foucauldian theoreticians, including Julian Reid, Thomas Lemke, Mike Gane, Michael Dillon, Paul Rainbow, Mitchell Dean, Wendy Brown, and other prominent names in the field. Why we will include texts from these scholars is because they have contributed significantly to Foucauldian scholarship and our analysis will greatly benefit from referencing them to enhance our own arguments. After delineating the tools from Foucault which will serve as the foundation for our analysis, Chapter II will explore the different categories of security studies, including traditional and critical, and

go through the details of how each tradition defines security and tackles the subject of security marketisation and the PMCs in Iraq. The purpose of this chapter is to highlight the gaps in the literature using our conceptual framework.

Subsequently, we will examine the process used by the US in Iraq when imposing their neoliberalisation and marketisation measures, which will be done using a Foucauldian interpretation of neoliberalism as a mode of governance. We will use that to drill down to the marketisation of security, examining the changes in norms and why PMCs were used in the first place. Next, the chapter will look at the role of numbers, data and performance measures, and will review the definition of accountability and explain the changes to it under a neoliberal mode of governance. The fourth chapter will build on the previous one and will expand on the role of the PMCs in Iraq, the types of activities they were tasked with and the various incidents that have made headlines. It will attempt to synthesise the elements that make up this thesis to shed light on the contribution of this work.

The final chapter will be the conclusion, in which we will attempt to summarise our main argument, review our original research questions and hypotheses and present the results of our theoretically informed analysis. The conclusion will also point out the weaknesses/limitations of our conceptual framework and outline areas for possible future research.

Literature on PMCs, Accountability & Security

The following sections will engage with the literature on CSS and IR theories in relation to their understanding of PMCs and accountability. We will begin by exploring what the term security means, how accountability is understood and the general perception of PMCs. The reason for doing so is that by engaging critically with the literature we can observe where the gap in accountability lies. Since the objective is to demonstrate that accountability is renegotiated under neoliberal governmentality, the thesis must first show how the literature sees accountability. Specifically, the goal is to show that the literature is primarily focused on making the claim PMCs, through their status as security providers are skirting the law or outright violating it. This, in part, is due to weak or a lack of mechanisms to enforce accountability. We will then make suggestions as to how PMCs can be held to account. The goal is to challenge this narrative by suggesting that accountability exists, according to neoliberal governmentality logic. That is to say, accountability is seen through numbers and metrics and, by that standard, accountability exists. To confirm this gap, we need to examine how the literature approaches the question of security vis-a-vis PMCs and accountability.

Williams (2013: 1) observes that ‘security’ is a widely debated term and means “exactly what the subject in question says it means”; however, “at an abstract level, most scholars within IR work with a definition of security that involves the alleviation of threats to cherished values”. Insecurity is caused by war, famine and crises (natural and man-made), and these events could lead to the instability of the state. As Williams (2013: 4) states “traditional security studies reflected an implicit and conservative concern to preserve the *status quo*... preventing radical and revolutionary change to international society.” In other words, it is the national interest, or *raison d’État* as Foucault referred to it (2007, 2008), that is a top priority in security studies.

Foucault described *raison d'État* as “ratio status” (2007: 313), and this would later become infused with the art of government to form a type of governmentality that is concerned with “preserving the foundation of the state”. It is important to note that status quo preservation is not the only item on the security studies agenda because, in addition to the state, there are also strategy and science (Williams, 2013: 3), and, while states are the main focus and “the most important agents and referents” , Williams notes that strategy involves utilising the available options, including “threat and use of military force” and, finally, there is science, which focuses on using scientific research to “build a reliable bank of knowledge about international politics” (Williams, 2013: 3).

Studying various theories of IR allows for a greater understanding of an extremely complex and volatile world. More importantly, different theories invoke different approaches to the issue of security, with a sub-field only focused on how security affects the dynamics of international politics. The field of security studies is complex and multi-dimensional, and though there is no singular definition of such studies, there are basic issues that occupy the discussion. It is critical to note that security studies developed from IR studies, and that might be perceived as problematic because it undermines the urgency related to why security studies were developed in the first place. Even more noteworthy is that the perspective of security studies practitioners is through the lens of the state, meaning the security of the state is what sets the agenda and the measures taken to ensure its stability.

IR theorists’ attitudes have begun to change, however, and a sub-field known as critical security studies has emerged, according to Peoples and Vaughn-Williams (2010: 4), who argue that these differ from traditional security studies in that they are “associated with the broader approach to international relations known as political Realism, in both its ‘classical’ and ‘structural’ (or ‘neo-realist’) variants”. In other words, CSS is not state-centric. One example

that highlights the differences between the two approaches is that during Mobutu Sese Seko's reign as the leader of Zaire (now the Democratic Republic of the Congo), the majority of the budget was allocated to providing its citizens with an "ill-disciplined and predatory military, while neglecting public health and education services" (Williams, 2008: 2). The idea that it maintained an order that promoted the overall wellbeing of citizens by providing them with such services was an ambitious task, albeit a non-realistic one. This incident highlights the state-centric approach, whereby security automatically implies that of the state while neglecting the security and wellbeing of the citizens of the said state.

In this sense, security is seen through the war lens, meaning that a country is able to maintain its security without waging a war on others and without "sacrificing its core values... and is able, if challenged, to maintain them by victory in such a war" (Peoples and Vaughn-Williams, 2010: 4). On the other hand, CSS involves "the so-called 'broadening' and 'deepening' of the security agenda", as observed by Peoples and Vaughn-Williams (2010: 5), who added that a critical approach goes beyond the scope of war to include "institutions, human individuals and groups, and even the biosphere." For this reason, the paper will devote special attention to CSS as it will help bridge the concept of security and Foucault's biopolitics and neoliberal governmentality.

The objective of this chapter is to demonstrate two things. First, there is a gap in the literature in security studies that does not answer the question of why states choose to hire PMCs in the first place. Although there have been the more traditional explanations, such as the rise of neoliberalism, the need for efficiency, cost-cutting measures, etc., what these explanations have failed to address is that they are merely concerned with the consequences of PMCs. In other words, they describe the effects of a neoliberal paradigm as being implemented in the security domain. The angle we want to explore in this chapter is rather *why* states resort to the use of private contractors and what is the logic driving them to do so. Additionally, the

definition of security as provided by CSS and other mainstream IR theories, as we will demonstrate, indicates the absence of threats, which may be a reasonable definition. As such, our second objective is to suggest a new interpretation of security based on our reading of Foucault's three lectures, *Society Must be Defended; Security, Territory, Population*, and *The Birth of Biopolitics*, as his evolution of thought and to demonstrate that security is, in fact, a manifestation of neoliberal governmentality. This will allow us to understand the logic behind security marketisation and the significance of PMCs in Iraq as part of the neoliberal apparatus.

We aim to achieve these objectives by examining the literature on security studies from the critical and mainstream perspectives. Specifically, we want to focus on what security means and how the concept is assessed. By doing so, we highlight the limitations of these definitions by tying it the subject of investigation, PMCs in Iraq, and whether those limits/gaps can be expanded on using Foucault's analysis of neoliberalism and security.

An Overview of Traditional and Critical Security Studies

The traditional (realist) approach to security

As referenced in the introductory chapter, Browning and McDonald (2011:235) observed that the CSS approach can be summarised by three main characteristics: first, a "critique of traditional (realist) approaches to security"; second, an explanation of "what security does politically", and third, a definition of "progressive practices... regarding security." CSS does not look at security only in terms of war, border protection and sovereignty, but it also looks at how the underlying political structure is affected. The concept of security often arises in a number of general statements regarding the need for inclusiveness and discussions, diplomatic means over aggression, or, as Browning and McDonald (2011:237) put it, the "liberal conceptions of desirability of dialogue, the realisation of basic needs and the minimization of harm", adding that while "these statements are not inherently problematic, they can appear limited to the point of banal in providing an ethical framework for coming to terms with the complexities of contemporary world politics". One weakness of CSS is that although it goes

beyond the traditional or realist approach that focuses solely on war and maintaining peace through power, it does not provide a practical solution to the problems it wishes to address. This issue will be examined in more breadth later in this paper; however, it is important to explore the framework and intricacies of CSS before discussing its shortcomings.

Before examining what CSS is, an investigation of the traditional or neorealist views on security could help articulate the discussion of the alternative viewpoint, namely CSS and its variations. To understand the realist views, one must first look at the central assumptions of this theory and its blueprint for how states should behave. It is safe to say that structural realism is the dominant ideology in IR and has profound impacts on our understanding of security and, as the research will demonstrate, critics of the traditional view often emphasise the lack of any factors other than the state as the central issue of such security studies. Generally speaking, realism is about every state's pursuit of power and its ranking among other states in terms of its strength and military capabilities, as well as the extent of its influence in the international political sphere (Mearsheimer, 2013: 78). However limited that scope may seem, there is a rationale behind this, and that rationale is to survive, as Mearsheimer (2012: 78) indicated. Survival here is indicative of something very specific and that is the survival of the state because, from a realist perspective, the international political system by design calls for states to ensure their capabilities exceed those of others.

The most intriguing aspect of neorealism's understanding of survival is that states "can pursue other goals like prosperity and protecting human rights, but those aims must always take a backseat to survival because if a state does not survive, it cannot pursue those other goals" (Mearsheimer, 2013: 79). This is precisely the crux of the matter for how this research intends to engage with the issue of security because, upon close examination, there are several areas that we need to consider to give a more concise understanding of the international system and how it can influence the subject in question, namely security. To begin with, we need to

look at how this view of states and their actions define or shape security. For example, we need to understand if realism can become applicable to states in the global South or if it is an ideology that can only match powerful states. Equally important, we must also examine if there is an alternative approach that can overcome the state-centric attitude of realism by acknowledging the insecurities of other entities. The objective of exploring this literature is critical to our work as it brings into light the gaps concerning PMCs which, in turn, is informed by these theoretical perspectives, as we shall explore.

The Emergence of CSS: An Alternative to Traditional Approaches

What then, is the origin of CSS and what are the different schools of thought that represent it? Peoples and Vaughn-Williams (2010: 10-11) observe that the Copenhagen, Welsh (Aberystwyth) and Paris Schools have come together to represent, generally speaking, the CSS approach, while acknowledging that identifying each school by its name can be reductionist for failing to include “feminist and gender approaches” and could create potential “Eurocentrism/Western-centrism critical approaches.” A concrete definition has not yet been provided for CSS⁴ aside from the general description that it is not purely focused on militarisation and takes into account other aspects that are neglected in the traditional approach. According to Peoples and Vaughn-Williams (2010: 7), CSS emerged during the Cold War, particularly due to the realist’s failure in determining the outcome of the war, leading scholars and IR theorists to “question the continuing relevance of Realism and traditional security studies more generally.”

⁴ Peoples and Vaughn-Williams (2010: 18) differentiate between upper-case “Critical Security Studies” and lower-case “critical security studies.” CSS draws on elements from Marxist philosophy, applying not just to “capitalism,” but also “popular culture, psychoanalysis and technology,” while CSS also draws on Marxist philosophy, but is not limited to the tradition and in fact “challenges it in some respects.” The reason for this is “the former has a particular (emancipatory) purpose, the latter is more heterogeneous in its concerns and goals” (Peoples and Vaughn-Williams, 2010: 18).

A non-state-centric approach was, therefore, needed to explain the behaviour of international actors and how they engaged in the global political sphere, which we might also consider to be one of the tenets that construct modern governmentality. However, before we examine how this might construct a new form in governmentality, we need to understand the shift that led to the evolution of a non-state-centric approach. As Peoples and Vaughn-Williams (2010: 8) suggest, following the 9/11 terrorist attacks, there was a “turning point between ‘old’ and ‘new’ eras,” which the US government used to instigate pre-emptive wars in the name of counter-terrorism and “the rolling out of new homeland security measures at home and abroad.” Such policies had a huge gap in terms of dissociating past events from one major event, namely the 9/11 attacks, and, as a result, “one of the defining features of a range of work associated with CSS, has been the critique of the usage of ‘9/11’ as a key turning point in global security relations” (Peoples & Vaughn-Williams, 2010: 8). What the authors suggest is that CSS does not accept the idea that a new world began with the 9/11 terroristic attacks, simply because this view “de-historicises the various colonial legacies, Western foreign policies, and global inequalities that are part of the broader context in which 9/11 and other terroristic events can be emplaced” (Peoples & Vaughn-Williams, 2010: 8). The actions of the US, at that time, are not entirely abstruse.

Nuruzzaman (2006: 239) observed that the Bush administration’s policies cannot be examined through the realist perspective as it fails to account for the *War on Terror* and the subsequent policies that have extended to Iraq. Instead, Nuruzzaman (2006: 239) suggests another approach, which he terms as *neo-conservative realism*, which can adequately explain US foreign policy. Even though this approach cannot be classified as part of the CSS umbrella, it does highlight the limits of the realist theories in explaining the complexities of international security.

The added term of *critical* in security studies implies that in addition to understanding the emerging political risks for states, history is also studied critically to explain the unfolding of these risks rather than framing them as unconnected events. In other words, CSS critiques the ontology of traditional security studies by widening the scope of its methodologies and looking at the history leading up to the present situation. For example, Krause and Williams (1997: 33) suggest that after the Cold War era, security studies practitioners were divided between those who envisioned a future based on mutual understanding and cooperation built on liberal and democratic values, and others who were occupied by the notion of constant threats brought on by ethnic and civil conflicts and the emergence of new destructive weapons. The former “focused on new threats and new understandings that require a basic rethinking of security itself,” including “economic and environmental security” as well as “human rights,” “gender,” and “indigenous cultures” (Krause and Williams, 1997: 33). The inclusion of other paradigms that are not related to militarisation or war provides a better understanding of security by examining other factors that might contribute to state security, and that also have the potential to create unrest and insecurity, such as sectarian divisions, and economic, as well as political, inequality in terms of certain under-represented groups.

Characteristics of CSS

The research will first summarise each concept and then expound on each one in greater detail to identify the basic parameters of CSS. First, the “security as a ‘derivative’” concept “derives from the way in which we see the world and the way we think politics works” (Peoples and Vaughn-Williams, 2010: 22). Second, the concept of emancipation entails “the freeing of people (as individuals and groups) from those physical and human constraints which stop them carrying out what they would freely choose to do” (Booth, 1991: 319). Third, an immanent

critique, according to Peoples and Vaughn-Williams (2010: 21), refers to the idea of pointing out certain features (agents, for example) that can achieve emancipation, and devising a framework that can enhance them. Fourth, the ‘theory-practice nexus’ is about the impact that a different understanding of security, in theory, can have on real-life application (Peoples and Vaughn-Williams, 2010: 21). Finally, state-centrism is the mechanism through which CSS challenges traditional studies by casting the state as both an “actor in world politics and the provider of security” (Peoples and Vaughn-Williams, 2010: 21).

For a more detailed account of the aforementioned concepts, let us begin by examining the ‘security as a derivative’ concept. This, perhaps, is the most critical notion of all because, as humans, we are grounded by our epistemological limitations: what we see and how we come to understand it⁵. For security studies in general, including CSS, the epistemological limitations are similar to any other field because what IR theorists and policy-makers fail to take into account is that there are always things that are presently unknown or that can be known only in hindsight. The approach to which theories are formulated and policies are issued is meant to be an all-time solution and is meant to fit our understanding of the world, not how it really is. In other words, we try to understand the world according to our theories rather than constructing theories to understand the real world. For this reason, even CSS does not factor in the epistemological limitations, highlighting a major weakness and a potential source of insecurity. This is to say that, for example, as Buzzan and Hensen (2008: 32-3) observed in their discussion of international security studies (ISS), which is merely a variation in the nomenclature, there are two types of security: objective and subjective. The former implies the absence of threats,

⁵ Nassim Taleb’s book *The Bed of Procrustes* refers to a character from Greek mythology who abducted travellers and forced them to sleep in a bed which, if they were too tall for, they had part of their legs cut off, and those who were too short were stretched, all so they could fit perfectly on it. Taleb’s idea was that “humans, facing limits of knowledge, and things we do not observe, the unseen and the unknown, resolve tension by squeezing life into crisp, commoditized ideas, reductive categories, specific vocabularies, and packaged narratives”. The same can be said of security studies as statesmen and theorists, even within CSS, propose certain generalizations which are made to fit all scenarios that are not necessarily applicable in each case.

while the latter deals with the absence of fear from threats, and from that distinction has emerged a new approach to security that takes into account subjective matters, such as “history and norms... psychologies of fear and (mis)perceptions”. However, a problem persists with this new approach and that is even the subjective approach to security has been formulated around an objective one; in other words, objective approaches focus on materiality and state military capabilities, while subjective approaches are “a more or less accurate reflection of objective security as measured by material capabilities and objective threats” (Buzzan and Hansen, 2008: 33). This brings us back full circle to the problem of epistemological limitations because even if CSS utilises the concept of security as a derivative concept, it is still in close proximity to a traditionalist understanding of what constitutes a threat. It is worth noting that the idea of human security is still somewhat debatable as Paris (2001: 88) has suggested because, it has been useful in producing an amalgam of middle power states, development agencies, and NGOs, “all of which seek to shift attention and resources away from conventional security issues and toward goals that have traditionally fallen under the rubric of international development.”

On the other hand, Booth (2007: 109-110) emphasises that security and everything it entails “*derives* from different underlying understandings of the character and purpose of politics,” and adds that people who feel safe, even though they are not, “have a false sense of security” because they are blind to the threats around them, while those who are constantly in fear of imagined threats also “have a false sense of security.” Peoples and Vaughn-Williams (2010: 22) have expressed contradictory statements to that of Booth, who said that security is the “absence of threats” because one has to understand what it is that is causing the threat, how to eliminate it and who it is affecting. Put differently, it is not logical or feasible to achieve emancipation if *all* threats ceased to exist for the reason that states have to be able to identify the source of a threat and act to eliminate it; however, to assume that all threats do not exist

runs counter to an understanding of security. Also to be taken into account is the fact that threats differ for each state; a threat for a state in the global South does not necessarily mean that it is also a threat to another in the North, and the process of alleviating this threat will, therefore, be dealt with differently by recognising the referent object in each particular case.

Second, the political discourse in CSS highlights another important aspect, namely the idea of emancipation. Booth (1992: 319) identifies several issues that impede the project of emancipation: “war and the threat of war are among those constraints, together with poverty, poor education, political oppression and so on”. Looking at these issues as obstacles that can hinder individuals from achieving their emancipatory potential highlights a shift in the security paradigm. Meanwhile, Booth (1992: 319) also notes that “security and emancipation are two sides of the same coin. Emancipation, not power or order, produces security. Emancipation, theoretically, is security”. Humans rank highest on the CSS agenda because the very concept of security was introduced, unlike in the traditionalist view, “to protect people” (Owen, 2004: 374).

However, Newman (2010: 77) suggests that even though critical studies have managed to go beyond the state-centrism of the traditional approach, they do not “engage substantively with human security as a distinct approach to non-traditional security”, and he proceeds to identify “Critical Human Security Studies” (CHSS) as a nuanced approach. But before moving on to discuss CHSS, we have to elaborate more on CSS to understand the difference between the terminologies. One point of contingency Peoples and Vaughn-Williams address is that CSS diverged from the traditional or neorealist approach by referring to humans, not the state, as the “referent object,” which “denotes that which is being threatened” (2010: 22-23). By doing so, Booth (2007: 154) suggests that our understanding of security changes in three ways. First, a “deep structure (of politics),” or the understanding of the “dynamics” such as economic or social factors is identified, second, a “(political) fracture zone,” referring to the “fractured

landscape produced by the interplay of the underlying ideas” is delineated, and, finally, “(policy) outputs” (Booth, 2007: 154) which look at the results of the deep structures and fractured zone or, in other words, the implication of their praxis is proposed. What Booth has proposed is a greater understanding of security by looking at other factors that affect the security agenda, such as social and economic stability, and, as a result of the interaction between these factors, a landscape being produced which reflects the “struggle of some sort because politics is concerned with who gets what, when and how,” (Booth, 2007: 154), and these two elements eventually shape the decisions and outcomes of security. Recalling Peoples and Vaughn-Williams’ (2010: 21) point about the “theory-practice nexus,” (one of the main tenets of CSS), also articulated by Jones (1999: 167), a reformulation of understanding security practices and the fact that they are inspired by theoretical frameworks “might aid in the transformation of the real-world practices.”

It is essential to acknowledge that the traditional approach, or neorealist statism, with its epistemological limits, is not a “derivative concept” since wars that have been carried out by supreme powers, such as in Vietnam or Iraq, were not the result of a country’s pursuit of power. As the leading neorealist John Mearsheimer (2005: 10) observed, just as his predecessor, Hans Morgenthau, had opposed the Vietnam War because realism considers nationalism “the most powerful political ideology,” in the same way, the Bush administration utilised strong nationalist rhetoric in the lead up to the Iraq War and succeeded in garnering support. The point made here is that neorealism is not a theory that promotes war, at least from a defensive realist perspective; instead, it is about first protecting national interests at home, and intervention only comes if there is a kind of imminent threat to one’s own interests.

The state’s interests can be in the form of strategic or trade relations with other states, and any political unrest can affect said relations and have an impact on other neighbouring states. In this case, where does CSS fit within the context of, for example, humanitarian intervention?

The research poses this question because, in real-life scenarios, states torn by civil wars or run by autocratic dictators typically require some form of intervention to protect the population from brutal regimes. What kind of response can be derived from an understanding of CSS? Would CSS necessarily approach this situation from a strictly war angle or are there other means of intervention, such as economic coercion? The answer is not a straightforward one because, as mentioned earlier, there has been no consensus on the exact definition of what security is; therefore, the idea of making humans more secure means different things in different contexts, as indicated by Peoples and Vaughn-Williams (2010: 22). Buzan et al. (1998: 1) have also mentioned that “it is more difficult when security is moved out of the military sector” because now war, whether pre-emptive or humanitarian, does not factor in the same way as it does for the realist or neorealist approaches. On the one hand, during the period of economic sanctions on Iraq, Mearsheimer (1999) suggested that the sanctions implemented by the international community against Saddam Hussein’s government had been ineffective in achieving their goals and had caused more harm to Iraqi citizens than, say, targeted bombings would have. Traditional security and realism are not, however, without their paradoxes. Dillon and Reid (2009: 6) argued that regarding Iraq, the US and the UK managed to justify the 2003 invasion on the grounds of “a common interest in humanity over and above the maintenance of the security of the state, or the maintenance of a stable balance of power”, adding that the rhetoric eventually stated that if the international community objected to this, then it became the duty of “liberal powers... to assume that responsibility for themselves.” This highlights the fact that state aggression, at least in modern times, is veiled in liberal rhetoric to take attention away from the fact the human security is still taking a backseat to state interests.

Conversely, Kaldor (2007: 1) argued that it was because of the Iraq War that states needed to develop a new approach to security, in that the war was premised on a state-centric approach, meaning that the US was the referent object that required the government to act upon the threats

posed to it. Kaldor (2007: 1) suggests that the Bush administration's approach was nothing short of traditional, "using conventional military forces to invade Iraq and subsequently trying to defeat insurgents". The use of military might to achieve a certain agenda which, in this case, involved the liberalisation of the economy and the transformation of a command economy into a neoliberal one, is central to the 2003 war. Given the fact that the initial rationale for the invasion was Saddam Hussein's possession of weapons of mass destruction turned out to be false, the idea became to transform a nation's entire economic, political and social system into one that complied with the mainstream economic agenda. Also, given the history of US-Iraqi relations, war became the only option to fulfil the desired political and economic agenda because, even with regular economic assistance, it "tends to be tied to policies of liberalization, privatization and macro-economic performance" (Kaldor, 2007: 182).

If we compare the understanding of security between the traditional and non-traditional approaches, only then can there be a coherent definition of what security is. Buzan et al. (1998: 21) observed that the use of security and any threats to it "has been key in legitimizing the use of force, but more generally it has opened the way for the state to mobilize or to take special powers, to handle existential threats". This, of course, is the traditional understanding of security, However, and this goes back to the point of CSS and humanitarian intervention, as Buzan et al. (1998: 22) point out, modern-day democratic nations no longer see the state as the referent object; instead, their militaries are "called upon to support routine world order activities, such as peace-keeping and humanitarian intervention." In this case, CSS inverts the foundations of security because, to keep the state safe, there has to be internal stability, including environmental, economic and social stability. There is a mechanism through which CSS has managed to take other factors such as economic and environmental issues and elevate them to a level worthy of being labelled as a threat to security, and it has done so through the concept of "securitisation".

Buzan et al. (1998: 23) maintain that security is “above politics” in the sense that issues are not taken at face value but rather seen through the prism of what constitutes a security issue, proposing a “more extreme version of politicization” referred to as “securitisation”⁶. The idea of securitisation is that, in practice, any issue can pose an immediate risk, “requiring emergency measures and justifying actions outside the normal bounds of political procedure” (Buzan et al, 1998: 24). Simply put, the process of securitisation bypasses the bureaucracies involved in the normal political structure due to the immediacy of risks arising from certain issues. Wæver (2011: 466) suggests a “politics of securitization” approach to understand how theory itself can impact political practices. This approach has three different aspects but, before explaining what they are, Buzan et al. (1998: 25) stress that a “discourse” which turns an issue into an existential threat to an object (a referent object) is not what securitisation refers to; instead, “the issue is securitised only if and when the audience accepts it as such”. As such, the main principles of securitisation are first, “empirical studies of *political processes* of securitization and desecuritization”, second, the “*concept of politics*... how to define politics,” and third, “how to theorize politics”. To put this in more practical terms, if, for example, a state begins the process of marketisation of its security, it might trigger an alarm that such a move would not necessarily be for the benefit of the state because of accountability issues and that, therefore, such issues pose an existential threat to the civilian population. This case would be considered to be what Buzan et al. (1998: 25) describe as a “securitizing move” because, up to a certain point, until the rules are broken or laws bypassed because of the immanent risks of outsourcing security, the issue cannot be considered “securitized”.

Observing Wæver’s three points of securitisation, we begin by examining how it functions politically. The aim of securitisation is in the term itself (meaning that securitisation is about

⁶ Securitisation is in fact one of the tenets of the Copenhagen School (CS) as Lausten and Wæver (2000: 706) have noted.

responding to a threat that the community has deemed to be a referent object), and Wæver (2011: 469) puts great emphasis on the notion that the act of securitisation must not be extracted from threats so that “a user can never reduce away politics.” This means that securitisation is not about cause and effect because, as Wæver pointed out, invoking Hannah Arendt’s argument that “politics is irreducible and happens *among* people as an unpredictable chain of events”, the act of securitisation is always politically motivated. Buzan et al. (1998: 29) observed that the act of politicising an issue turns it into a topic of discussion, thereby providing a sense of “responsibility, in contrast to issues that could not be different... or issues that should not be put under political control (e.g. a free economy, the private sphere, and matters for expert decision)”, The second point involves, paradoxically, desecuritisation. Wæver (2011: 469) demonstrates that desecuritisation is built within the theory of securitisation because the act of securitising something requires taking extreme measures to counteract the threat posed to a referent object. And so, Buzan et al. (1998: 29) note that when an issue becomes securitised, it can give more power to the elites which can “silence opposition”; therefore, desecuritisation involves taking any issue that is labelled as an existential threat “out of this threat-defence sequence and into the ordinary public sphere”.

The third point regarding securitisation is concerned with “security rationality”. This refers to the inherent risks of securitisation. Since any issue can become securitised and, consequently, would require extreme measures to handle it, “securitization ‘solved’ this widening impasse” (Wæver, 2011:469). This means that if an object is threatened, securitisation “could ‘throw the net’ across all sectors and actors and still not drag in everything with the catch” to avoid the problem that “everything becomes security.”. The problem with this approach, Wæver (2011: 470) notes, is the emergence of a type of “exceptionalism”: in other words, by avoiding the ‘security is too wide’ trap, securitisation adopts a very stiff approach that only allows “exceptional” objects to become securitised. Wæver (2011: 470)

elaborates that this has the effect of a double-edged sword, in that securitisation can generate a “particular security rationality” by acting on the security discourse rather than keeping it abstract, but it also creates rigid exceptionalism. Simply put, securitisation has the benefit of implementing its agenda, but it can also be a sort of ‘bottleneck’ that would impede referent objects from becoming securitised through exceptionality.

Balzacq and Guzzini (2014: 98-9) observe that the process of securitising an object does not necessarily focus on “purely material conditions,” and that it takes place through the harmony that exists between the “actor and audience”. Even though exceptionalism can shift the focus away from threats to certain issues, it can still be an effective tool by going beyond materialism and physical objects, unlike the traditional approach that only focuses on the state and other physical and material objects. Lausten and Wæver (2000: 706) note that an essential characteristic of securitisation is that “the character of the referent object makes a difference”. Also, Lausten and Wæver (2000: 739) use the example of religious fundamentalism to explain how securitisation and de-securitisation work, noting that one way to tackle the global conflicts that often take the shape of religious conflicts is to de-securitise religion because it represents a separate entity to “violent and ideologised conflicts”. If this approach were to be adopted, perhaps it might shed some light on the root of the causes of conflict.

Despite the role that religion (and religious extremism) plays in shaping modern conflicts, a closer look at the surrounding issues can uncover the root causes of conflict and insecurity. The idea here is that by widening the scope of our understanding and avoiding reductive arguments by allowing other issues, such as global economic inequality, to interfere, we can better understand the causes of human insecurity. How many, if any, of the current conflicts can be seen as economically driven or the result of post-colonial policies. If we look at the policies set forth by institutions such as the IMF, we can see how these policies have impacted and continue to impact the South in terms of political, social and economic security. Such

thinking has been exemplified by Horkheimer (1972: 212-13), who argued that the “bourgeois economy” was modelled on a care of the self-approach that gives a minority of the people power, prestige and happiness, while others suffer from “material and intellectual weakness”.

This results in “a paralyzing bareness, and men, by their own toil, keep in existence a reality which enslaves them to a greater degree”. One can establish a connection between Horkheimer’s arguments and those of Lazzarato in *The Making of the Indebted Man* (2012), in which the latter argues that debt has become a new form of lifestyle, where individuals are constantly living in debt as part of the neoliberal paradigm. Similarly, Horkheimer (1972: 213) observes that “unemployment, economic crises, militarization, terrorist regimes” are due to “the circumstances of production which are no longer suitable to our time”. That is to say, neoliberalism has created a type of debt-driven society that forces individuals into a life-long habit of repaying their debts which, in turn, creates growing inequalities, leading to greater insecurities.

Jones (1999: 20) asserts, based on Horkheimer, that “there is no doubt that the political and economic structures that traditional theory⁷ helps support are utterly objectionable”. For this reason, the idea of emancipation “when considered in a wider sense, is primarily an approach to international politics”, according to Kaltofen (2013: 38). Booth (2007: 113) argues that as long as people are not free in the literal sense of the word, that is, free from any kind of “oppression,” emancipation does not exist. Nunes (2012: 351) argues that emancipation as a framework for security is helpful because it can be seen “as a form of praxis committed to political change – specifically, the transformation of arrangements that are implicated in the (re)production of insecurities”. This is an important point: first, because it highlights how emancipation functions by placing humans as the referent object that needs protection; second,

⁷ The use of “traditional” denotes theories that run counter to critical studies, including CSS. According to Jones (1999: 20), “Critical theory is premised on the rejection of the prevailing order and aims at a root-and-branch reorganization of the way in which society is organized.”

because it also highlights the fact that it is not merely an abstract idea, but one that actively seeks to change the dynamics of security. Discussions of emancipation would not be complete without the mention of the role of feminist security studies (FSS), explains Basu (2013: 455, 57). Basu notes how feminist studies were able to interject the IR scene dominated by neorealists by drawing attention to the fact that sexual assault was used as a weapon in armed conflicts, demonstrating how “the personal is linked to the political” (Basu, 2013: 457).

Emancipation is key in FSS because one critical threat it seeks to eliminate is male-dominated security and strategic studies. Simply put, feminism aims to present security studies as gender-neutral, thereby dismantling the built-in hierarchies that shape IR, which is dominated by men, and also seeks to overcome the tendency of security studies to be Western-centric (to be examined in more depth later in the research). Keeping with the theme of emancipation, it is helpful to acknowledge the contributions of the theory of constructivism in terms of how social construction “brings into being a subject or object that otherwise would not exist” (Fierke, 2013: 188), and by contextualising it within the idea of emancipation, it helps articulate what FSS and CSS aim to achieve. As such, Nunes (2012: 352) explains that just like CSS, embedded within the FSS is the idea of immanent critique, and it “follows logically from the acknowledgement of insecurities of individuals and groups, and plays into the normative and political agenda of security as emancipation”. Booth (1991: 319) suggests that through emancipation, comes political stability, citing Europe between the 60s and 70s as an example of how, despite military stability, there was no political stability due to the oppression of societies. This problem calls for a more comprehensive approach to security studies, one that would involve other fields, such as sociology and anthropology, and which would focus on societies and individuals and how they interact with the state. Booth (2007: 170) suggests that as soon as political studies began incorporating other disciplines, and peace

studies were emphasised, it became clear that for “developing countries⁸”, the internal stability and harmony of the state had a higher priority than threats to security arising from wars.

Wæver (2010: 650) notes the importance of having a multi-disciplinary approach to security studies, mainly focusing on the “sociology of international security studies,” adding that it would “explain scholars’ choices and moves.” He contends (Wæver, 2010: 651) that by adopting a political-sociological approach, it becomes easier to identify what occupies scholars’ thoughts and how they develop their theories. It would not be appropriate to assume that all theories in social and critical sciences emerge only from people studying the field; therefore, examining how IR scholars and security studies experts introduce their theories is important in understanding the theories themselves. Wæver (2010: 651-2) also notes that the emergence of security studies in the 1940s required “civilian expertise on matters military”. This is not to say that the field suffers from a lack of rigorous academic research, but to emphasise how the field gradually emerged over time from the beginning of the Cold War and progressed onwards. This is to say, security studies can benefit from the integration of other disciplines, especially the sciences and mathematics, which could bring about a “second golden age” for security studies (Wæver, 2010: 656).

What has been presented thus far can be cast in a positive light. However, CSS is not without its flaws, and it suffers from major blind spots that present an obstacle to it becoming the new paradigm to replace traditional studies. One of the main problems facing security studies, including traditional, CSS and ISS, has been the lack of non-Western points of view and a tendency to adopt an almost colonialist perspective in its analysis of the global South. Buzan and Hansen (2009: 200) point out that scholars in the 90s called for a re-examination of the “Western-centric conception of the state” as part of the growing post-colonial studies. Still,

⁸ This term is only used to distinguish the region of the world with emerging economies, and is not meant to be associated with the terminology of the traditional or non-critical approaches.

this Western-centric point of view was largely held by the “traditionalist realist approaches” and was “based on a particular European history of state formation” (Buzan and Hansen, 2009: 200-1). Bilgin (2010: 617) notes that in security studies, it is challenging to find in the literature any work on the insecurities experienced by the non-Western countries predominantly because what has been written is from an “avowedly Western-centric perspective”.

Another problem within the scholarly work is that it does not adequately explain how the global South practices security, which points to the ahistorical tendencies within the field of security studies. Although recent developments have been achieved⁹, the problem of having non-Western views on security studies remains unsolved because, as Bilgin (2010: 617) explains, simply making space for this type of literature is only a temporary solution because of the “historical absence of the non-West from security studies”. In other words, the history of security studies is blemished by the fact that since its development, it has systematically undermined the alternate viewpoint by solely focusing on how the developed Western world defines, and therefore acts on, security matters. Similarly, Barkawy and Laffey (2006: 331) argue that it is difficult to understand the conflict between the global North and South due to the Eurocentric understandings of “histories and geographies”. What complicates matters further, according to Barkawy and Laffey (2006: 331), is that even when those opposed to the realist agenda, whom they identify as “liberals,” embark upon humanitarian relief and conflict resolution, they do so according to their national agendas and those of international organisations, both of which are “largely the product of interstate diplomacy dominated by Western great powers”.

While the nomenclature of Eurocentrism and Western-centrism might be used interchangeably to refer to the overall general concept, Stanley Hoffman, in *An American*

⁹ Ayers (2008: 4) observed that ““critical theory” is thus able to critique the fixity, ahistoricism... with mainstream IR,”

Social Science: International Relations (1977), demonstrates how most of the study of IR has been designed to fit the logic of the US as a superpower. Hoffman (1977: 58) describes the international system as “Athenian,” by which he means that “the strong do what they can, the weak what they must”. Put differently, the international system is Darwinian in the sense that the fittest, or the strongest, states survive and thrive in the international system, while the weakest have to adapt to this tough environment. Although the dominant approaches emerged from both Europe and the US, the dominance of American studies has created a rift between the two. Smith (2000: 399) observes that the US is still “hegemonic in the discipline,” yet in the meantime, he suggests that the UK, along with other European nations, have developed a better understanding of the discipline by being “more open and less conformist than the US”. Smith (2000: 400) even asserts that the UK IR is more capable of engaging with the intricacies of the ever more complex system than the American IR¹⁰.

Fisher, Onar and Nicolaïdis (2013: 296-7) have recently proposed a “decentring agenda... which will enable students of global order – and Europe’s place therein – to better grasp the challenges and opportunities of our increasingly non-European and post-Western order.” Certainly, this would bring about much-needed developments to CSS and the whole IR discipline, and yet it is still missing an essential component, and that is to examine why, in a supposedly post-colonial world, states in the global South pose a threat to the security of the Western world. Examining the validity of Samuel Huntington’s idea of the clash of civilisations, Ayoob (2012: 3) notes that following the Holocaust, and by taking responsibility for the anti-Semitic persecution and killing of millions of individuals of the Jewish faith, and the decline of communism, this combination of factors ultimately created the Judeo-Christian civilisation, making anyone who falls outside it uncivilised or barbaric. To that end, Islamism,

¹⁰ This brings back Wæver’s idea of the political sociology of security studies (2010), and how IR theories are ultimately influenced by the origin of those devising them, thus asserting the need for a non-Western approach for security studies and IR.

or political Islam, became “the main challenger to Western ideological hegemony” (Ayoob, 2012: 3). While it would be factually incorrect to cast the global South as Islamic given the fact that there is a considerable non-Muslim population in areas such as the Levant and North Africa, security threats are perceived as emanating from Islamic countries that produce terrorists which, for this paper, can be said to come from the South.

For these reasons, even CSS falls short of identifying the challenges facing the securitisation of states and its inability to bridge the gap between security threats facing the Western world versus threats facing the global South. In the face of these challenges and risks to security, a new ideology that is based on an understanding and implementation of the market to other domains has arisen, namely neoliberalism. Neoliberalism serves not just as a political-economic ideology, but it is also an IR theory that bears the same features as the economic theory. Smith (2000: 380-1) suggests that both neoliberalism and neorealism are very similar in terms of their ontological foundations, which could be morphed into one as both ideologies converge by constructing similar solutions for security matters and economic regimes: “neorealists tend to study security issues and neoliberals tend to study political economy”. What comes out of this hybrid is essentially the paradigm on which the current international system operates. This system is constructed to serve the needs of the Western world and, even more interesting, is that its logic was dissected in the *Manifesto of the Communist Party*¹¹ in 1848, when Marx and Engels wrote: “the bourgeoisie, by rapid improvement of all instruments of production, by the immensely facilitated means of communication, draws even the most barbarian nations into civilisation” and, in doing so, “it creates a world after its own image”. Developed states (the bourgeoisie), aim to make less developed ones to mirror their own image;

¹¹ This paper will not attempt to reconcile a Marxist analysis of neoliberalism and Foucauldian neoliberalism, because as Springer (2012: 133) argued, to do so would establish a “false dichotomy,” meanwhile suggests that neoliberalism would best be understood through a “discourse approach,” which would present it as a “process of socio-spatial transformation.”

they do so through globally connected economic regimes and, in a way, the uncivilised states become civilised by adopting the same political and economic ideologies of the civilised ones.

States demand, PMCs supply: Perspectives from the literature

PMCs were a necessary force in Iraq, yet the very concept of security privatisation has allowed it to become, as Leander (2005a) put it, a product that is in *supply* and *demand*. While it is clear that this is the unfolding of neoliberalism, and to understand how PMCs hold the status as security experts and providers, it is important to look at how government structures have changed. Krahmman (2003: 1-2) proposes that the rise of private contractors or “non-state actors” can be explained as “a shift from government to governance” due to “the fragmentation of political authority among public and private actors”. As we will show later in this chapter, the idea of shifting from government to governance is the mechanism through which neoliberal governmentality operates and diffuses its power. As we have seen thus far, the Iraq War has exemplified the proliferation of PMCs despite them being actively present in past wars, such as those of the Balkans; however, the violations and scandals of PMCs in Iraq shone a spotlight on the security privatisation trend.

The Congressional Budget Office (CBO) report (2008: 2) findings confirm the argument that security has turned into a commodity, evinced by the allocation of a budget for the Iraq War. The report shows that between 2003-2007, \$85 billion were awarded in contracts for work to be done in Iraq, of which 70 percent were for PMCs. Of interest, \$76 billion of contracts were awarded by the Department of Defense (DoD). Even though not all contracts awarded were for security, with some being awarded for logistical activities, the report found that the reliance of the US on contractors to perform any sort of duties (previously done by the state) was unprecedented. As such, between 25,000 and 30,000 contractors were working in Iraq in early 2008, and approximately \$6 billion were spent on security contracts from 2003-2007 (Ibid, 2008: 2). As evidenced by the total amount of spending on security and logistic contracts,

the premise of cost efficiency was challenged and, as the demand for contractors increased, so did the total amount of spending.

Avant (2007: 181-2) explains that the surge in PMCs is “tied to supply and demand”, suggesting that the “downsizing” of state militaries in the late 80s and early 90s had caused this surge because, as the public sought military assistance, the private market was able to fill the military and security deficit. To contextualise the rise of PMCs, Avant (Ibid; 182) suggests that globalisation, growing uncertainty, and economic and environmental challenges have forced the change in the way we think about security. More importantly, the rise of PMCs “was a consequence of how disorder in one part of the world, combined with information technology and the speed of travel, fed insecurity in another”.

In another proposal for how to manage PMC accountability, Huskey (2012) offers a holistic approach to assign accountability by having it present in three stages: the preliminary contracting phase, the in-the-field phase and post-conduct. In this scenario, the parent state can vet the contractors properly and determine which tasks will be outsourced (similar to Stanger’s (2012) view). The second part of Huskey’s accountability framework covers the period while contractors are in the field. This relies on the application of international laws and the code of conduct, monitoring and compliance by the state, along with the cooperation of other international organisations. The third and final part of Huskey’s mechanism is a post-conduct assessment, which takes into account what the contractors/companies have done, applying the appropriate laws to prosecute for misconduct, criminal prosecution and compensation to those affected by PMC actions. On the other hand, Perrin’s (2012) take on the issue begins with the premise that six lacunae in the international legal framework that regulates PMCs exist. First is the ICC’s (International Criminal Court) incapability to prosecute them. Second is the fact that companies themselves enjoy a special status under international law; the countries to which the PMCs belong do not pursue criminal charges because of the economic benefit that they get

through using them. Third, violations arising from PMCs when conducting operations for private entities (non-states) are difficult to characterise as human rights violations under the law as it stands. Fourth, international law is unable to enforce countries to actively and properly regulate PMCS, and the existing mechanisms are ineffective. Fifth, even if the contractor can be prosecuted by the parent state of the company, the state itself may not wish to prosecute. Finally, unless the parent state drafts special legislation that allows them to prosecute PMCs and its employees at home for crimes committed abroad, no action can be taken.

Coming from a similar international legal perspective, Shah (2014) has suggested that to have proper enforcement of accountability measures for PMCs, states need to adopt a similar framework to that used in the International Traffic in Arms Regulation (ITAR) and the Foreign Corrupt Practices Act (FCPA). One theme that emerges from these analyses is that they acknowledge that there is a problem in enforcing accountability, and they have suggested different approaches, both legal and theoretical (although it might be difficult to distinguish between those two categories). What the analyses did not address is why the combat operations were outsourced in the first place and, more critically, why did they not examine the significance of the accountability mechanisms in relation to the political-economic structure. It is for that reason we argue that traditional analyses rooted in CSS or traditional IR theory are not addressing either the ontological problem of neoliberalism as a system of governance or the tools it uses. One analysis that is of particular interest for this chapter and for the case study is that by Tkach (2017), who identifies that economic incentives outlined in the contract structure for PMCs have contributed to the increase in violence in Iraq.

The referencing of the previous analysis serves two purposes: first, it gives a diverse and broad idea about the spectrum on the debate of PMCs' accountability in Iraq, and, second, it allows us to state which issues this chapter will not be focusing on. The international legal framework and IHL will be touched on, but only tangentially, and will not be a central theme

of the chapter/thesis. While there are numerous reports and declassified government documents detailing how PMC employees have engaged in unlawful conduct in Iraq, and although we will be citing some of these reports in this and the subsequent chapter, this will also not be a key theme here. Furthermore, this chapter is not an attempt to present a new framework to hold PMCs accountable for their actions nor does it state what the US government should have done to hold them accountable. Instead, we will show how the deployment of neoliberal governance in Iraq, leading to the privatisation of security and focus on how these entities were held accountable and the logic underlying the reformulation of accountability.

Private Military Companies and the Marketisation of Security: CSS vs Foucault

The previous sections presented a survey of the security studies literature, specifically concerning CSS approaches to human and state security. This and the subsequent sections will attempt to achieve the second objective initially stated: to examine how a Foucauldian neoliberal governmentality can assess the impact of the marketisation of human and state security to PMCs, and to overcome some of the weaknesses of the traditional and CSS approaches. This brings us to the primary subject of our analysis: PMCs and how they are examined in IR and security studies literature. While Iraq is our case study, we would like to study how these entities are examined and how they are assessed and why states resort to them in times of war and peace-keeping.

The concept of privatising state security has been a controversial phenomenon yet it is still “poorly understood—and often unacknowledged”, observes Singer (2005). PMCs are usually portrayed as mercenaries or guns-for-hire (although both terms have the same meaning, i.e. for-profit soldiers). Percy (2007: 1) notes that mercenaries are “considered immoral because they use force outside legitimate, authoritative control”. However, according to a document

released by the House of Commons (HC) (2002: 6), PMCs, PSCs and mercenaries¹² are terms used to describe a whole range of people and the kind of activities they are involved in.

The problem arising from using these terms interchangeably is that it casts all these subjects as one when, in reality, each provides a different service, although their activities do converge slightly. However, HC 577 (2002: 7) demonstrates why it would be problematic to identify someone hired by a company as a mercenary because, first, it is difficult to know the true motives of the said person and, second, recruited individuals have their contracts drafted so that they are designated differently, which falls outside of the standard mercenary definition. For example, according to HC 577 (2002: 7), Sandline International, in a mission in Papua New Guinea, identified its employees as “Special Constables”; therefore, it would be factually incorrect to classify them as mercenaries. This, in turn, poses another problem in terms of morality because, on the one hand, these people are not mercenaries in the technical sense of the word, but on the other, the operations they carry out are hard to distinguish from those carried out by mercenaries.

The lack of clarity is not only limited to PMCs as HC 577 (2002: 7-8) has indicated: volunteers, for instance, usually have “idealistic rather than financial” interests. Such volunteers include “Islamic militants in Afghanistan, Chechnya or the Balkans”, who are classified as volunteers despite being ideologically motivated and financially compensated. Likewise, “servicemen enlisted in foreign armies” are another example of forces hired by

¹² The Additional Protocol to the Geneva Convention, Article 47, 1949 defines ‘mercenary’ as someone who is:

- a. “especially recruited locally or abroad in order to fight in an armed conflict;
- b. does, in fact, take a direct part in hostilities
- c. is motivated to take part in the hostilities essentially by the desire for personal 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 the Party to the conflict nor a resident of territory controlled by a Party to the conflict;
- e. is not a member of the armed forces of a Party to the conflict; and
- f. has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.”

foreign governments, even though governments usually choose to hire people who fall within the definition of mercenaries ((HC, 2002: 7). Defence-related industrial companies offering equipment and training services, are quite similar to PMCs because they, too, can “arrange to supply people to operate the equipment”. Finally, PMCs offer a range of services, including, but not limited to, providing “forces for combat” (HC 577, 2002: 8).

As for the PSCs, they tend to differ in their services from the range of bodies mentioned above. HC 577 (2002: 8-9) notes the use of PSCs by non-governmental organisations (NGOs) and the UN to protect their workers, and cites Angola as an example where foreign investors are responsible for their own safety “usually by hiring a private company”. The “ratio of private security guards in developed countries is 3:1” and in “less developed countries, it is maybe 10:1 or more”. Even though this seems more conservative than the types of tasks carried out by PMCs, PSCs have begun to engage in “training for protection against pirates”, a task that “might equally well be undertaken by private military companies” (HC 577, 2002: 9). Again, one faces the dilemma of fleshing out the tasks of these subjects, and how they function. Despite the different terminologies assigned to them, ultimately their work converges and they end up executing very similar tasks. This complicates the situation in terms of accountability (as will be explored later in the thesis) as well as the legal boundaries and the sovereignty of states.

HC 577 (2002: 9), paragraph 17, notes that it is challenging to acquire information about PMCs and their activities abroad, thus making it “difficult to make an accurate estimate of the extent and the impact of private military services”. Two issues emerge from this statement: the first is transparency and the extent to which PMCs’ activities can go undetected, which leads to the second issue, that of accountability and who should be held responsible if a PMC breaks the law or does not act within its boundaries. More important to note is that PMCs are a Western invention, created by former individuals who served in the military from the US,

UK, Israel, South Africa and France (HC 577, 2002: 12). The issue of Western-centrism still lingers, as evidenced by the fact that one of the earliest examples of a PMC, Executive Outcomes, is a South African company.

Having discussed this, it is critical to examine the effects that PMCs can have on states, especially in terms of political, economic and social stability. Political stability, at least from a CSS perspective, ensures that all entities are accountable for their actions to ensure overall stability and not only that of the state. Put differently, if the armed forces of a state engage in crimes against the civilian population, these forces and those who head them “bear responsibility and can be prosecuted in national courts and (once it is in operation) the International Criminal Court” (HC 577, 2002: 14). A different scenario plays out if a fragile state hires a PMC to carry out duties typically reserved for the military. In this situation, how might the state hold a PMC accountable if it commits gross human rights violations? HC 577 (2002: 14) notes that “a weak government which is dependent for its security on a PMC may be in a poor position to hold it accountable”.

While the logical conclusion to this does not necessarily translate into chaos and a state of lawlessness, it does pave the way for PMCs to act according to their own agendas with impunity. A recent example of the use of excessive force and accountability was the Nisour Square killings perpetrated by the Blackwater (now known as the Academi) convoy, as documented by Scahill (2007: 3-4). Singer (2007: III) suggests that this incident draws attention to issues of “legal status, oversight, management, and accountability of the private military force in Iraq”. These concerns grow as incidents of sexual assault and financial crimes have surfaced, which have given the impression that the legal system has no control over the actions of PMCs (Leander, 2010: 468).

The debate on regulating PMCs and how they should have been held accountable is multifaceted. There does not seem to be a consensus as to what the source of the problem is or what the mechanism to tackle it ought to be. Stanger (2012) advocates the view that better regulation of PMCs can be achieved by identifying certain tasks that must not be privatised. Stagner (2021) also calls for increased transparency of government contracting and sub-contracting and ensuring that only tasks that do not involve combat can be outsourced. In other words, Stanger backs the Weberian view of the state's monopoly on legitimate violence. Taking a slightly different view on how to regulate and hold PMCs accountable, Del Prado (2012) suggests adopting a UN Draft Convention that would offer a robust territorial jurisdiction regulatory framework, one that would allow states to monitor PMC activities. It also calls for enhanced oversight of PMC personnel rather than relying merely on the International Code of Conduct (ICoC)¹³, and the development of an international monitoring system.

Similarly, White (2012) suggests that through a combination of the Montreux Document and the UN Draft Convention, proper due diligence can be performed and states can enforce more accountability by recognising that certain functions can never be outsourced (those involving combat) and ensuring the implementation of corporate social responsibility¹⁴. Another approach to PMC accountability analysis is that of Snukal and Gilbert (2015), who affirm that even with territorial jurisdiction, the existing laws and the ones that have been introduced during and after the majority of combat operations are the result of what they refer to as 'juridical othering'. On the other side of the spectrum, Brooks and Streng (2012) take a more 'non-hostile' stance towards PMCs. They suggest that more focus on the quality of contracts and stronger enforcement mechanisms and government regulations will separate the

¹³ To be discussed later in the chapter in greater depth.

¹⁴ This is a relevant point which we will address later in this chapter.

law-abiding and ethical PMCs from the ones that break the law. This can be done by rewarding the former and creating strategic partnerships, ultimately leading to a proper accountability framework.

The literature critiquing the accountability and legal status of PMCs does not just focus on human rights violations. For example, Cameron (2006: 592) points out that the business of PMCs is for profit, which poses a problem because their primary motivation is to ensure the maximisation of their profits. Even more problematic is the fact that these companies “tend to furnish cheap labour”, whose knowledge of human rights and international law is either limited or non-existent, making illegal activities and violations even more possible. One of the intricacies of the legality of PMCs goes back to the point made earlier in this paper about their status or examining how PMCs recruit employees and their methods of operation. Isenberg (2008: 111) provided a different approach to accountability in which he suggested that there are laws and regulation to hold employees of PMCs accountable for their crimes, but there is not enough oversight concerning monitoring and auditing the contracts of the individuals the PMCs hire.

Transparency has also been a problem for PMCs, given that it is difficult to monitor how they operate while in a war zone (HC 577, 2002: 15). Given that it is problematic to collect information on PMCs, it is unsurprising that the level of transparency of their work is an issue. But, as Isenberg (2008: 105-6, 150) has demonstrated, UK-based companies are more open to conducting transparent operations, citing the Security Industry Authority’s recommendations of classifying companies by their services, the complete transparency of their employees and their practices, the establishment of a “code of conduct” as well as “clearly defined government department and agency responsibilities.” In practice, the said “codes of conduct” are not so much enforced by the government as they are promoted within the private military industry in the UK; for instance, in 2006, the British Association of Private Security Companies (BASCP)

was launched. The BASCP was created, according to their mission statement, “from the realisation among a number of leading UK private security firms that there was an urgent need to raise the standards of operation and advocate self-regulation” (BASCP, 2006).

The continual expansion of PMCs poses many problems. But, one of the first problems that presents itself, from this point of view particularly, is that by diversifying the type of work private contractors carry out and by expanding their role as agents in charge of carrying out tasks in the security domain, is there a risk of PMCs becoming an enemy of the state? One could make the argument that if states resort to PMCs to carry out a variety of tasks, then they run the risk of experiencing a coup. The reason for this is that states who wish to use the services of PMCs lack a proper defence apparatus (the state military and security forces) and, as Percy (2007: 217) explains, modern views on the use of private contractors (or mercenaries, according to the terminology used in the book) is unfavourable as “a state which requires the assistance of private force is a weak state”. Moreover, PMCs are only used on the “periphery”, and not within the core or more developed and stable states (Ibid). Similarly, Cohn (2011: 382) points out that this scenario is almost impossible in developed countries and that it would be counterproductive to the contractors’ interests. On the other hand, Cohn mentions (Ibid: 395) that PMCs can influence the government in some other way, and, more importantly, “weak and unstable” states that have natural resources are like to face a coup scenario.

Another criticism levelled against PMCs concerns the threats posed to sovereignty. A report filed by Special Rapporteurs Shameen and Ballestros (2008: 7) for the Office of the High Commissioner for Human Rights recorded that mercenaries’ activities “include interference with sovereignty.” Having pointed out that using the terms mercenaries, PMCs, and PSCs interchangeably can increase the complication of an already complicated situation, the report (2008: 10) argues that “companies that agree to engage in combat intervene in a state’s internal affairs in the same way as any mercenary but they can also place a heavy long-term financial

burden on the Government that hires them, curtailing its capacity to promote development.” Contrary to this understanding, HC 577 (2002: 15) suggests a PMC has nothing to gain from attempting to take over a state because no other country would be willing to hire it thereafter because of its reputation. Nevertheless, other disconcerting issues arise from hiring PMCs, like the argument of economic exploitation of the state’s resources; as HC 577 (2002: 16) indicates, the PMCs exploitation of economic resources is also a threat to a state’s sovereignty. However, it does also note that in the case of a rebellion, it could be better for the state to “mortgage some of its mineral resources” instead of having the rebel forces take control of it, which could do more harm than the former option.

As Krahmman (2013: 53-4) observed, according to the Montreux Document on the status and use of PMCs, which was issued by the FDFA Section for International Humanitarian Law IHL following the Blackwater incident in Iraq, only states and their militaries can legally engage in wars or general coercion for “purposes other than self-defence”. Simultaneously, the document attempts to “legalize and legitimize the use of armed force by incorporated companies providing international military and security services through the document’s recognition of the legality of these firms and its advocacy of industry self-regulation”. This, of course, creates a problem for multiple reasons, the first being the change in the norms, or the major shift of monopoly in violence from the state to the private sector (Krahmman, 2013: 54).

Second, it is that the motivation of PMCs and PSCs is embodied in profit maximisation, and because of this, when hiring them at times of conflict, where there is a significant risk that these companies will not necessarily abide by humanitarian law, but look only to complete the task in exchange for monetary compensation. The same logic can be applied to PMCs and this can have multiple effects on both human and state security. These effects can be in the form of increased violence and uncertainty in terms of the PMCs allegiance to the body that hired

them as they are technically for-profit. But, as noted in the previous section, PMCs that automatically go to the highest bidder risk their reputations; in other words, states will be reluctant to hire them out of fear that they could turn on them for the sole purpose of profit maximisation.

That said, using Foucault's analysis of neoliberalism will allow us to explore and untangle the complications arising from PMCs and their accountability by pointing out that what this system of governance does is it essentially redefines accountability, rather than subverts it. What is meant here is that as we study the literature detailing how PMCs behaved in Iraq, we are not looking at how they managed to "circumvent" accountability (Fanara, 2010), or that they enjoyed a special status that granted them impunity, as Leander (2010) suggested. Instead, our argument is that from a Foucauldian standpoint, neoliberalism as a form of governmentality views "security as a *dispositif*", meaning that "it is neither the result of speech acts ('Securitization')... nor can it be reduced to an essential function of the modern state", and it is understood as the "strategical effect of specific relations of power, knowledge and subjectivity" as Richum (2013: 164-5) points out. When we contextualise how PMCs operated in Iraq and look at the effects of marketisation on (in)security, we can then argue that it is not simply about safety, freedom from threats, or protection of the population. Instead, it is about a set of practices that are assessed using economic tools that calculate costs and benefits.

Legality, norms and the discourse on PMCs in Iraq

The reason why we chose to focus on Iraq as a case study is because it serves as an example of the rapid economic transformation brought on by neoliberal governance. The marketisation of security specifically has allowed us to study the effects of neoliberalism not only as a technology of government but also the shifts neoliberalism promulgates and the reification of accountability and transparency. One important distinction we need to highlight is that the presence of PMCs in Iraq does not merely point to a shift in the norms, as others (Percy 2007, Krahnemann 2013) have pointed out. Rather it suggests the reworking of the concept of

accountability, and even though it might be construed as a deviation from the norms, using Foucault's analysis of neoliberalism suggests that perhaps we were focusing on a less important aspect of security privatisation.

Although one can argue that states and state apparatuses should have sole responsibility to exert force, this stems from the Weberian philosophy which, as Sheehy et al. (2009: 12) have pointed out, arose out of two issues:

“Firstly, the rise and maturity of the modern nation-state and its nationalistic credo of patriotic armed forces as a symbol of national security and governmental authority in defending its territory and citizenry. Secondly, the nature of military skill and its underpinnings—the management and deployment of violence—was now underpinned by the state's determination in the nineteenth century to prevent an active role by private entities.”

As stated earlier, we are using a variety of sources, ranging from congressional reports to academic articles. The purpose of this is to assess how the shifts in the definitions of accountability have affected Iraq's security environment and to discuss its implications through Foucauldian analysis. Although neoliberal policies were enforced because of the war and, by extension, the contracting out of security services was not a voluntary decision, this would have no impact on the subject under consideration as it is our main purpose to examine how accountability fits under the privatised security framework. As we shall witness in the upcoming sections, much of the literature focuses on (and rightfully so) not only the abuses committed by PMCs and their “paradoxical impunity” as Leander (2010) referred to it, that PMCs enjoy under IHL. While this does comprise a major part of what we are trying to explore, using a Foucauldian analysis of neoliberalism and its framework will not only reveal a gap in the literature on PMCs and accountability, but it will also reveal that the approach to accountability itself is missing critical points. The first is that we are no longer dealing with the same definition of accountability. The second is that under a neoliberal framework, this shift in the definition changes our understanding of security, and so what is embodied as a form

of undemocratic accountability is inverted to fit the neoliberal framework. The most effective way for private militaries to function is to have an environment that can accommodate this relatively new¹⁵ phenomenon.

After the initial stages of the invasion, Iraq became extremely destabilised as a result of the power vacuum, the rise of the insurgents and the obliteration of its infrastructure. Thus, because of the volatile situation, there were many exogenous factors that could have influenced (and did) the PMCs' actions. At the same time, the PMCs were an essential part of the war and, even with the mounting incidents involving abuse and disorderly conduct by the contractors, they were still needed. In other words, there was an incentive for them to return because, even with the loss of many of their employees, the need of the US government to use their services in the increasingly chaotic situation acted as the incentive for them to keep coming back and being awarded more contracts. This chapter can make the argument that the interdependency and linkages between the US government and the use of PMCs is the manifestation of a neoliberal governmentality, and the only way to answer questions about accountability vis-a-vis PMCs is to examine them in the light of a neoliberal discourse.

As Peter Singer (2004:1) demonstrated, PMCs (or private military firms - PMFs, as he refers to them) are essentially "the corporate evolution of age-old mercenaries", noting that they are *not* the typical "dogs of war" and instead they provide a variety of services as "corporate bodies." The problem with this, however, is the nature of the services which they provide (assistance in armed conflicts, the mining of natural resources, military training, to name but a few), and questions regarding their legality and accountability persist. In addition, and more importantly, the question of the "change in IR norms" through the increased reliance on PMCs, as Krahnman (2013: 53-54) argues, are central to the debate.

¹⁵ New here refers to a collective that is "the evolution of the age-old practice of mercenaries" (Singer, 2004).

Let us begin by examining Order Number 17 issued by the Coalition Provisional Authority (CPA), which discusses the legality and the “Status of the Coalition, Foreign Liaison Missions, their Personnel and Contractors.” This order begins by giving definitions to “Coalition Personnel” and “Coalition contractors,” who are represented by “non-Iraqi military and civilian personnel... under the direction or control of the Administrator of the CPA,” and “non-Iraqi business entities or individuals not normally resident in Iraq supplying goods and/ or other services to or on behalf of the Coalition forces or the CPA under contractual arrangements” (2003_b: 1).

According to that definition, these contractors were there to provide “goods and/ or services,” including, but not limited, to military and security services. Recall Chapter II, where we explained what PMCs are responsible for are, primarily and specifically, tasks that are normally conducted by the military (i.e. the state), or, as Timothy Spicer established, they are “corporate bodies specialising in the risk assessment, operation support and technical skills,” as quoted in Percy (2007: 60), similar to the definition provided by Singer (2004). One of the challenges identified here is concerned with how, under international law, the PMCs were able to operate, what that meant for their status (legally speaking), and if that indicated norm changes.

In addition to explaining who the contractors were (including PMCs) and what their jobs involved¹⁶ in Section 4 (2003_c), the CPA also outlined their legal status. Specifically, it stated that:

“Private Security Companies and their employees operating in Iraq must comply with all CPA, Regulations, Memoranda and implement instructions or regulations governing the existence and activities of Private Security Companies in Iraq, including registration and licensing of weapons and firearms.”

¹⁶ Order Number 17 defines “contractors” as “non-Iraqi legal entities or individuals not normally resident in Iraq, including their non-Iraqi employees and Subcontractors not normally resident in Iraq, supplying goods or services in Iraq under a Contract” (2003: 2)

The order outlined that only the CPA had jurisdiction over PMCs and stated that all Coalition contractors (and sub-contractors) should “not be subject to Iraqi laws and regulations in matters relating to the terms and conditions of their contracts in relation to the Coalition forces or the CPA”. Furthermore, they were immune “from the Iraqi Legal Process with respect to acts performed by them within their official activities pursuant to the terms and conditions of a contract between a contractor and Coalition Forces or the CPA and any sub-contract hitherto”.

As was pointed out in the last section, the controversies surrounding PMCs were related to the lack of accountability and transparency, and the moral ambiguity of foreigners engaging in military activities in which they were not native. The problem was further compounded, as evidenced by the CPA’s Order with respect to accountability, which shielded all contractors from the Iraqi legal process, any legal action being up to the jurisdiction of the parent state¹⁷ and the CPA administrator. This, again, is outlined in Order Number 17 (2003C). The problem of PMCs and other contractors, whether involved in security and military operations or reconstruction, was that some of them worked under a primary contractor as sub-contractors “two, three, four, or even more levels down the contracting chain, which makes oversight that much more difficult,” claims Isenberg (2009: 29). Thus far, from our own analysis and that of others, we have established that PMCs have now become the norm under IR and, according to the literature surveyed, most analyses have focused on problematising the issue at hand and, equally so, is the analysis of the rise of PMCs as a direct result of free-market policies.

Putting aside the questionable fact that an outside force was operating on Iraqi soil, while at the same time violating its sovereignty, something bigger lingers in the background, namely the acceptance of a form of violence that is not sponsored by the state. As Kinsey demonstrates

¹⁷ The Parent State is defined as “the state providing Coalition Personnel as part of the Coalition in Iraq or the state providing Foreign Liaison Mission Personnel.”

(2007: 89), this is a kind of “transformation of the legal status” which then alters “society’s perception of the type of activity acceptable for PMCs”. This transformation can be considered to be a change in IR and international security as Percy (2007) maintains throughout her book the term ‘mercenaries’ and its meaning has shifted because of the change in the ‘norms,’ and said change is articulated by the change in the “proscriptive norms”, meaning that we can no longer have a set definition. But how are norms generated in the first place and how are they inscribed on the political and social agenda? Finnemore and Sikkink (1998: 892) argue that new norms have to first reach a “tipping point, after which agreement becomes widespread.” They (Ibid: 895) contend that norms have a “life cycle”, which they divide into three stages: the first is “norm emergence”, the second is “norm cascade”, and, finally, there is “internalisation.” The first stage is the process by which “norm entrepreneurs” persuade state leaders to embrace the new norm; the second stage is a cascading effect of other state leaders convincing other state leaders to embrace the new norms and, finally, the third stage of internalisation is what allows norms to cease from becoming a matter of discussion because they have reached the “tipping point”.

Let us consider the norm vis-a-vis PMCs: they are considered mercenaries, guns-for-hire, and dogs of war but, as we have outlined in Chapter II’s appendix, the Six Points Definition according to the Additional Protocol to the Geneva Convention Article 47, the definition for mercenaries is rather constrained and, therefore, does not fit into the modern concept of PMCs. Percy’s views are critical because they pinpoint the underlying problem: “the word for mercenaries has evolved into a pejorative term used to denote a disliked soldier” (207: 51-2). So, if we combine Percy’s argument with that of Finnemore and Sikkink’s (1998), the term “mercenaries” does not apply because its meaning has evolved from the emergence of a new norm that has significantly changed it, making referring to PMCs as modern-day mercenaries impractical.

Similarly, Krahmman (2013: 54) focuses on the shift in the norms; however, her argument is more focused on the consequences of such a shift, arguing that it would create a “collective violence and conflicts may be fuelled by the profit motive” and that it may also lead to 16th-century style commercial armies

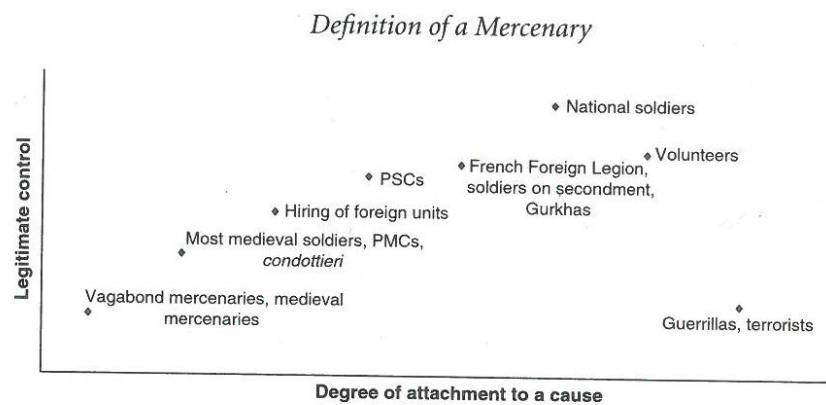


Figure 2.1. Spectrum of private violence Percy, S. (2007: 59). *Mercenaries*

(condottieri). Krahmman (Ibid) goes further to add that these ideas seeming “ludicrous” is evidence of the acceptance of “the norm of the state monopoly on violence”. Percy’s (2007: 30) account, on the other hand, makes it clear that norms are subject to change. As such, we have two issues at hand: the first is the “proscriptive norm” for if we were to go back in time before the rise of the so-called PMCs, they were simply referred to as mercenaries. Furthermore, as Percy argues (Ibid: 52), there are two elements that make up the definition of mercenaries. The first is not being an affiliate to the parties involved, and the second is the financial motivation. The second issue we have is: Where do these PMCs fall in terms of their aggression and behaviour? Percy offers a unique approach called the “spectrum of private violence” (Ibid: 59), where she illustrates on a graph (reproduced above) “the degree of attachment to a cause on the *x-axis* and degree of legitimate control on the *y-axis*”.

Interestingly, PMCs lie close toward the middle of the *y-axis*, indicating that they are not entirely operating outside legitimate boundaries but, at the same time, they are far behind in terms of their “attachment to a cause”, indicating that they are economically motivated more than anything else. This brings us to the next point highlighted by Due-Gundersen (2016: 86-7) regarding “good” and “aggressive” firms. Good firms, on the one hand, have an aura of

credibility for abiding by the IHL, while aggressive firms are usually contracted out by equally “aggressive clients” who “seek PMCs willing to ignore IHL and prioritise their clients’ interests.” Academi serves as an example of an aggressive PMC, most infamously for the 2007 Nisour Square massacre (Scahill: 2007), as we have documented in Chapter II. It is worth noting that the four employees of Academi were tried at the US Court of Appeals for the District of Columbia Circuit and were found guilty on charges of manslaughter and attempted manslaughter: one of them received a life sentence and the remaining three received 30 years in prison (Bruer and Pearson, 2015). This points to a contradiction. First, the actions of these contractors resulted in the death and maiming of innocent Iraqi civilians, but the objection here is not against the use of PMCs, but instead, it only focuses on the actions of a few rather than probing the matter at hand, that of using these companies. This matter is what our research is looking to expound on, namely *what* is the objective of outsourcing security? What is the logic for this objective? The problem with these analyses, we would argue, is that they do not address the bigger question that results from neoliberal governance.

One thing that arises from our research and is important to examine is the financial motives of PMCs, and how that affects their perceptions and the work they do. Our discussion revolves around exploring the rise of these private entities as emblematic of neoliberal governance from a Foucauldian perspective. Ettinger (2011: 743) explains that while it is easy to use the word *mercenaries*, PMCs have been “integrated into the operations of the world’s most powerful militaries and normalized through their transaction on the free market”. We must highlight the idea of the market as part of a neoliberal system because what we have here is several players all offering their services and competing to provide their commodities to governments that are willing to pay for these services for defence contracting. The keyword here is *competing* as it brings out the essence of what neoliberalism is about and distinguishes it, for example, from liberalism, which is based on *exchange*, as Foucault (2008) stated.

The normalisation of PMCs in Iraq

Lovewine (2014: 25) cites the Commission on Wartime stating “military commanders in Iraq view PSCs as ‘force multipliers’ and as a tool to augment their own military forces”, as well as helping the military to focus on “other mission requirements”. In theory, and in hindsight, the presence of private forces was much needed to assist the US in achieving certain goals (the question about how ethical those goals were and whether or not they were achieved is for another discussion), yet concern here is not whether they were needed, but more related to the normalisation of the state’s attitude towards the privatisation of peace and security. The acceptance of private force was outlined in the Montreux Document, and even though it states that states seeking the use of PMCs must not use them for activities that IHL explicitly assigns to a”state agent... exercising the power of the responsible officer over prisoner-of-war camps”. Two issues must be taken with the document. The first is the acceptance and normalisation of the use of PMCs in times of war by stating their legal obligations under IHL, since obliging an entity to follow procedures means acknowledging its presence as legal. Second, the subsequent part of the document refers to “Good practices relating to Private Military and Security Companies.”

It is plausible to suggest that the presence of private forces and the market encroachment on activities that must only be carried out by the state is not a bad sign. For example, Brooks (2000_a: 34) contends that PMCs can be a force for peace and stability, referencing Executive Outcomes, the notorious PMC that operated in South Africa which, according to him, helped in ending “two African wars..., and they did it cheaper and faster than would have been possible using multinational organisations”. The result is a conflict between the humanitarian services that PMCs might provide and the violence that might ensue from their presence. Baggiarini (2015: 46) makes the very critical point that PMCs “reconcile the tension between the liberal humanitarian impulses to preserve life, or ‘make live’, and the need of sovereign

powers to effect legitimate violence against politically disqualified others—to ‘let die’”. This can bring about positive and negative effects because, on the one hand, PMCs can be utilised to help the preservation of the biopolitical but, at the same time, this plays into the idea that PMCs have the authority to either spare the lives of others or the ‘excluded’ or eliminate them.

Brooks (2000b: 129) also suggests that the stigma concerning PMCs as mercenaries makes them a potential force for peace that remains untouched; furthermore, he claims that as more contracts are issued by the public sector to PMCs, it “will result in a ‘legitimization’ of the industry” that will help with the enforcement of regulatory policies and ensure that oversight for “humanitarian standards” are in place. Brooks tone is evidently quite different to most scholars who have written on the topic encountered in this research, although it is anchored in the idea of norm changes and the fact that acceptance of PMCs no longer sparks a debate about the ethics of using non-state actors to carry out military duties. Instead, the issue at hand is how can the stigma attached to private military forces be removed, and how can we tap into this potential market for peace and utilise services that such companies can offer in a more cost-efficient way.

Leander (2005a: 607) notes that Brooks is not proposing that PMCs should be left without oversight and that only respectable PMCs, which “should preferably not be involved in direct combat” and should be more involved in other support operations, can be contracted out. Leander (Ibid) adds that this view has become mainstream, supported by the words of Enrique Bernales Ballesteros, the former Special Rapporteur on the question of the use of mercenaries in 1997:

“attitudes towards the mercenary issue, which, it should be noted, has been condemned strongly and repeatedly by the United Nations, particularly by the General Assembly, would appear to be changing” (UN General Assembly).

The actions of PMCs in Iraq have shown that not only has the acceptance of PMCs become mainstream, they have also proved the difficulty of having a framework that allows them to operate with oversight and regulations and with humanitarian restraint.

In 2007, at a hearing on private security in Iraq and Afghanistan held by the House Committee on Oversight and Government Reform, Rep. Henry Waxman, who was chairing the hearing, said that the assumption that private corporations can do the same tasks as the military only cheaper and quicker had been put to the test, and the result, he claimed, was that “privatization has exploded” (Washington Post, 2007). During that same hearing, Erik Prince explained that private contractors had always been part of US military history, and even claimed that there were existing regulations for contractors. And, given that one of the objectives of this hearing was to determine the level of accountability of Blackwater employees, Prince stated that his company “shares the committee’s interest in ensuring the accountability and oversight of contract personnel supporting U.S. operations” (Ibid).

The problem with Prince’s statements is that it merely echoes the same arguments as those made by Brooks and the Montreux Document, and it is illogical to refute them on the basis that more accountability and oversight are needed, and private contractors should not engage in combat exercises and should focus on support operations and training. Yet, it misses the essential point, and that is security outsourcing has become the *raison d’être* of military operations and defence strategies. Rep. Waxman has even said, “Inside our government, it has become an article of faith that outsourcing is best” (Washington Post, 2007). This is what we intend to examine more closely in the upcoming sections in relation to the idea of accountability under a neoliberal governmentality because the question is not whether more oversight is needed (and who should monitor the oversight tasks since that, too, has been outsourced, according to Rep. Waxman) but how is oversight assessed and how does abiding by rules and regulations constitute accountability within that framework. One of the issues that might hinder

the examination of this topic is the level of intertwinement of PMCs in the Iraq War and their status under the legal system.

To illustrate these two points, when asked if Blackwater uses the rules of engagement, something that is strictly reserved for the military, Prince answered in the affirmative, before fumbling for words and admitting, “Well, sorry, the Department of Defense rules for contractors. We do not have the same as a U.S. soldier at all” (Scahill, 2007: 21, Washington Post: 2007). As for what happens when a contractor does not abide by the rules of the Department of State (DoS) (committing killing incidents or other serious violations), Prince answered that the responsible contractor would “have two decisions: window or aisle”, indicating that their employment would be terminated (Ibid: 22, Washington Post: 2007). This shows the level at which PMCs receive immunity from legal prosecution because even though at the time of the hearing, the Blackwater employees had not been sentenced (and now that they have been, their sentences are being overturned, according to Nottingham and Sterling, CNN: 2017), military soldiers were being “court-martialled on murder-related charges in Iraq”, explains Scahill (Ibid).

PMCs and democracy: what is at stake?

As the chapter continues to explore the actions of the private security industry in Iraq, the objective is to develop an empirically driven analysis. Due to a lack of a fundamental understanding of what PMCs represent, which is that states began using them out of necessity, they have shifted the normative understanding of security. Furthermore, we would argue that states are inadequate when dealing with PMC misconduct, avoiding the main problems and merely calling for more regulations and oversight without developing an actual framework that helps them deal with PMC transgressions. Ironically, one can make the argument that philosophically, there is an underlying liberal tradition embedded in the decision by the US to contract out some of its core security duties to private companies: namely, Immanuel Kant’s

idea of ‘perpetual peace’. Doyle (1986: 1151), however, debunks the argument that states are promoting peace and civil liberties when they include “exercise restraint” and “peaceful intentions” in their foreign policies” by demonstrating the Kantian notion that “liberal states are not pacific in their relations with nonliberal [*sic*] states” (Ibid, 1157). As such, the concept of ‘perpetual peace’ can only be fulfilled if, and only if, all the states involved adopt certain conditions or “definitive articles”.

Following this logic, Avant and Sigelman (2010: 231) explain that since democracy guides states’ behaviour internationally, “states rely on military organization rather than ‘hired dogs’”, which leads to the inevitable rhetorical question: If democratic states are overtly relying on PMCs, does this challenge the democratic principles that guide their behaviour? The subject of democracy in the context of neoliberalism and PMCs is critical since it opens discussions about the role of accountability *and* transparency in the presence of these elements. As we have seen thus far, the Iraq War has shown, to some degree, the “paradoxical impunity” (Leander, 2010: 467) PMCs have acquired through international law, and how they have managed to override the competition mechanism, i.e. the essential component to neoliberal governance.

So, with such blatant abuses of international and state law, what has been the effect on democracy both at home and in Iraq? In other words, have PMCs done more to help the Iraqi transition or have they done more to undermine the US efforts and furthered the hostilities? History has proven the war has led to the demise of the country and given rise to Sunni Islamist groups like ISIS. But the question is: How has the intervention and lack of accountability and transparency changed the layout of the democratic process.

As has been previously noted, the extent of PMC involvement in the war was unprecedented, and as more activities were outsourced, the more complicated it became to identify the accountable figures. One of the major scandals that drew much attention to the

actions of PMCs was the Abu Gharib Prison incident in 2004 which, according to de Wolf (2006: 315), came as a shock since at first it was thought that only US military personnel were involved in the torture and abuse of prisoners; however, later, it was revealed that PMCs were involved too. Ironically, after the series of incidents had taken place, the PMC “and its associations thus actively lobbied for national and international regulations to increase the legitimacy of private security companies” explains Krahmman (2009: 9). The problem, however, was not the fact that PMCs were seeking legitimacy, for if we look back at the kind of activities carried out by them, as de Wolf (2006: 320) pointed out, we can see many of them had been confined to “support and logistical tasks” formerly done by the military. The real objections were to “certain tasks that involve coercion and the lethal use of force.”

Carney (2006: 219) tells the story of one of the men abused in the Abu Gharib prison, Amjed Ismail Waleed, who was detained and tortured by both the military and private contractors, during which time he “had his head covered with a bag and smashed against the wall... and was subjected to various sexual abuses.” In that same story, Carney mentions that while there have been indictments for the military personnel involved in this scandal, none of the private contractors was prosecuted. The problem here becomes clearer from the perspective that since military personnel are official representatives of the government, their actions are bound by international law and are subject to prosecution under the legal system of their state. On the other hand, from that same perspective, one must ask: Who are the contractors representative of? Is it the parent (sending) state, the entity that employs them, or the host country where they are operating? Are private contractors bound by IHL as the state military are? The answers to these questions are not straightforward for the reason which has been outlined in Chapter II, as well as in this chapter; the legal definition provided for individuals and/or entities engaging in military conflict is simply too narrow to grasp the complexities of modern warfare.

The US has attempted to instate certain frameworks to help regulate PMCs, but it has not always been effective. A 2008 report by the United States GAO highlights the difficulties of accountability and control mechanisms, explaining that the “DoD has increased the number of personnel in Iraq assigned to provide oversight for DoD’s PSCs but has not developed plans or a strategy to sustain this increase”. The more critical aspect of the GAO’s findings is that the way in which the US tried to increase oversight for private contractors was by relocating existing personnel responsible for oversight on other missions (peacetime and expeditionary) and tasking them with monitoring PMCs. This dilemma of having to shift employees from one place of oversight can be explained by the principal-agent theory as, in this case, to allow the principal to have sufficient oversight of the agent, other deficiencies are bound to arise because increasing the number of personnel to carry out monitoring and control duties means an increase in the costs. Furthermore, the GAO findings concluded that even though the DoD had updated its training programmes for private contractors being deployed in Iraq, that update was reflected in the actual training they received, making the military units responsible for these tasks “unaware of their expanded oversight and investigative responsibilities”.

The marketisation of security was not an accident in the neoliberalisation of Iraq, but instead, it was the manifestation of the later stages of unrestrained capitalism. Through this logic, cost efficiency and job performance were two primary aspects to focus on to get a grasp of how security had been dealt with in Iraq. This meant that to save costs and manpower, the US administration did not provide security for all the employees it sent over to Iraq to be part of the “rebuilding Iraq” mission. As the GAO 2005_a report indicated, members of the reconstruction contractors and civilians from government agencies had to solicit PMC security services because the US military was only responsible for providing security for DoD “civilians and contractors who directly supported the combat mission”. To get a sense of just how integral PMCs were in Iraq, Scahill (2007: 18) cites the words of Deputy Secretary of State John

Negroponte: “Blackwater, he said, “kept me safe to get my job done”. Without them, he said, “the civilians of the Department of State would not be able to carry out our critical responsibilities in places like Iraq”.

Stöber (2007: 125) maps out the situation with regard to the reconstruction process following the dissolution of the CPA, which placed most of the responsibility with the Chief of Mission and the Iraq Reconstruction Management Office. It seemed, given the number of tasks being carried out for reconstruction purposes, that the US government would provide state security to individuals working on them; instead security was outsourced to PMCs. This brings up a critical point about the ontological nature of neoliberalism; using Foucault’s method of analysis outlined previously in Chapter I, autonomy and freedom are built into neoliberalism. Applying this analysis to the situation of the reconstruction teams having to seek security providers to carry out their work indicates that because they were autonomous in the sense that they were not directed by the government but were working according to their agendas, they were obliged to care for themselves. Despite them being part of the mission of rebuilding Iraq, the logic of allowing agents to work independently while expecting them to show good results was neoliberalism in action.

To further illustrate this point, the GAO 2005_a report findings clarify that even though PMCs and the US military have “developed a cooperative working relationship” (2005: 2), it was meant to be “one of coordination, not control”. The problem with this approach, we would argue, is that coordination with no control in this specific matter is counterproductive, as has been the case. According to another GAO report titled *Interagency Contracting: Problem’s with DoD’s and Interior’s Orders to Support Operations*, due to the shortage of personnel needed for “interrogation and other services in support of military operations in Iraq” (2005b: 1), the DoD sought to acquire more contractors through the Department of Interior. The issues with this manoeuvre were that some of the orders were not within the scope of the initial contract;

the orders were not in line with “additional DoD competition requirements”; the Department of Interior did not provide proper justification for the decision concerning “interagency contracting”; nor did they follow “ordering procedures meant to ensure best value for government; and inadequate monitoring of contractor performance” (Ibid: 3). This report, along with the other GAO report, point to several issues. The first is the disconnect between what is actually taking place on the ground and policies and guidelines set forth by government agencies; this, again, we would attribute to being part of the neoliberal governmentality and, essentially, what this report shows is that components of the government are acting as they see fit, given the kind of autonomy provided by the logic of neoliberalism. Second, and this perhaps is the most critical point and is mentioned within that same report, not only was there a breach in governmental procedures but, because of this breach, “the contractor was allowed to play a role in the procurement process normally performed by government” (Ibid: 7).

What is the connection between Foucault and PMCs?

Therefore, our focus now is to tie the theoretical element to the empirical analysis of PMCs to see how Foucault’s work could explain the significance of privatisation under neoliberal governmentality. As such, neoliberalism can be perceived as a new technology of government that has its origins rooted in an economic approach that puts value on market freedom, which is also seen as the main source from which individual freedoms are extracted. It should be noted that for this paper, the neoliberalism in question is that of the Anglo-American tradition, or as it is more commonly known the Chicago School of neoliberalism.¹⁸

More precisely, Chicago neoliberalism, from a Foucauldian perspective, can be seen as a mechanism that extends the enterprise or the economic model into the social sphere and is not

¹⁸ It is worth noting that by the end of the Cold War, proponents and opponents of neoliberalism shared one thing in common and that was “both sides shared an understanding of the capacity of the human subject to autonomously organize and act in pursuit of its rational interests”. However, one side placed greater emphasis on market freedom while the other saw the need for “more intervention at the level of the state” (Chandler and Reid, 2016: 3).

limited only to the economic and political spheres (2008: 242). This is to say, neoliberalism aims to take these economic principles and reformulates them according to its own logic. This change can have some confounding effects, as noted earlier, specifically if one attempts to analyse PMC accountability. The reason being, and to reiterate the statements from earlier, it is counterproductive to develop new frameworks to hold PMCs accountable without acknowledging how the concept is interpreted through neoliberal modes of governance. Our assumption starts with saying that accountability is not circumvented but, rather, it is perceived as something that can be quantified. That shift comes from a change in the perspective of accountability as being something quantifiable and subject to measurement.

To summarise the main arguments, the objective of this chapter was to demonstrate how a Foucauldian analysis can fill the gaps in CSS and traditional theory by demonstrating that the security apparatus does not operate on the notion that every threat can be thwarted and everything is kept under strict supervision to avert any harm towards the referent object or, in this case, individuals. As such, the main element of our analysis of PMCs must consider security as a *dispositif* of neoliberal governmentality. What we mean is that by looking at security as an essential mechanism of the neoliberal government, the way states deal with it becomes subject to the same entrepreneurial standards that are deployed for other aspects of society.

As such, PMCs fulfil an important role in modern state security, and as different entities compete for the award of contracts, they are implementing the essential criteria that underlie the neoliberal mode of thought: competition. To that end, the gap Foucault manages to fill is achieved not only by demonstrating the problem of “domination and subjugation instead of sovereignty and obedience” (Shani, 2010: 210) but also by showing that a neoliberal governmentality employs the security apparatus as part of the mechanism to govern society

using the same principles that govern the market and, by extension, PMCs are a vital component of the security apparatus.

This part of our analysis will serve as the foundation for our case study as we examine how the use of private contractors in Iraq is emblematic of Foucault's description of a neoliberal governmentality. Foucault's work, then, serves as the theoretical framework through which we examine our case study to flesh out why international studies and CSS have come up short in their examination of the effects of security privatisation in Iraq.

Theory: Foucault on Neoliberalism and Governmentality

This chapter will situate our analysis within a Foucauldian framework by using certain elements from his analysis to examine the topic of accountability in relation to PMCs. To establish a solid base on which we can build our analysis, this chapter will be split into two parts; first, the theoretical elements we will focus on from Foucault's work, which are neoliberalism and governmentality, will be outlined. This will set the stage for the second part of the chapter, which will focus on the methodological framework of using Foucauldian-inspired discourse analysis (FDA). In his work, Foucault details his concept of biopolitics and the evolution of the liberal art of governance and expands on his concept of biopolitical governmentality, through which he explains the problems and limitations of political liberalism. It is worth noting that a substantial portion of the political and economic interpretation of liberalism has been divided, with much of the focus put on the state and those who command it, rather than the intricacies that make up the state itself and the power dynamics between them and the population.

Since the emergence of economic liberalism and its more extreme form neoliberalism, states that have adopted these policies have witnessed high levels of political and economic volatility, most recently during the 2008 global financial crisis. As a result, many have been led to question the soundness of economic liberalism as a theory, with Venugopal (2015: 1) stating that neoliberalism has been presented as a "dystopian zeitgeist of late-capitalist excess." Still, neoliberal policies can be seen as a mechanism through which "the economy functions as an internal limit on government" as Schneiderman (2014: p.66) noted. Such a view helps understand Foucault's account of neoliberalism, not as an absolute economic theory but rather as a countermeasure to the totalising attitudes of the state, as this research will demonstrate.

Framework

The purpose of this chapter is to contextualise the idea of human and state security within Foucauldian concepts of biopolitics, governmentality and neoliberalism. The chapter starts by examining the distinction Foucault made between security and discipline, and how these various dispositifs¹⁹ have been deployed by the state to quell, monitor, and control risks and behaviours. The chapter will also examine the effects of these dispositifs and demonstrate how they have led to the manifestation of biopower, which is defined as the state's "control of the biological" (2003: 240) and the exertion of power that goes beyond the disciplinary techniques. Finally, the analysis will demonstrate, in a more concrete manner, how 19th-century economic liberalism based on the idea of exchange developed into neoliberalism based on competition, acting as new biopolitical governmentality that can overcome the state's sovereignty by creating a society where each individual becomes "an entrepreneur of himself" as Foucault (2008: 226) put it. The Foucauldian framework makes a holistic analysis possible as it takes into account the underlying aspects of the neoliberal theory and ties it to other domains, including security and discipline.

To outline Foucault's work on governmentality and neoliberalism, the primary text under examination will be *The Birth of Biopolitics* (1979). The purpose is to trace the emergence of the concept of governmentality and outline Foucault's ideas and how these concepts became new technologies of government used to exert power over people in both the political as well as the physical sense. This requires examining the apparatuses utilised by governments to exert power over populations, and doing so allows one to look at how the security apparatus was eventually developed from the former apparatus. With that in mind, the discussion will move

¹⁹ According to Foucault (1977: 194), the concept of the dispositif, or the "apparatus" refers to a "thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic proposition – in short, the said as much as the unsaid. Such are the elements of the apparatus. The apparatus itself is the system of relations that can be established between these elements".

on to examine how the concept of biopolitics leads Foucault to the discussion of nineteenth-century liberalism and its evolution into neoliberalism, and how it can be used as a new form of biopolitical governmentality that can overcome the totality of the state. Finally, the research will engage with some of the secondary literature to examine how Foucault's work has been developed.

Our method of analysing the work through Foucauldian elements pertaining to neoliberalism will include a discussion of the *dispositifs* used in shaping US neoliberal policies rather than engaging in any debate about ideology. The critical aspect of our argument will use Foucault to explain how, through the neoliberalisation of Iraq, the concept of accountability was transformed as it pertains to PMCs. Therefore, our argument is to demonstrate that previous analyses of PMCs and accountability for their actions in Iraq overlook an element that can be highlighted through Foucault's work, namely that neoliberalism is a form of governance, and embedded in that mode of governance is a mechanism that enables private and public institutions to use an economic model. That model according to Foucault (2008: 219) involves the "extension of economic analysis into a previously unexplored domain." In other words, neoliberalism (and neoliberal governance) involves the use of the market and its mechanisms by applying them to other areas, including to the security apparatus through the use of PMCs and the marketisation of military and security services.

By doing so, we aim to present the following argument: the rise of neoliberalism as a technology of governance has brought about many shifts that have altered how we understand basic concepts, such as accountability and transparency. As we shall see in this and subsequent chapters, this has been one of the main contentions in the literature, specifically that concerned with security privatisation. By contextualising accountability within Foucault's work, we will argue that new understandings of accountability are not a consequence of the rise of neoliberalism, but by design. In other words, accountability has been subjected to the same

economic principles as other domains which, in turn, has shifted the meaning of democratic accountability.

Governmentality & Neoliberalism: Introduction

Foucault (2008: 259-260) describes neoliberal governmentality as a:

“theme-program of a society in which there is an optimization of systems of difference, in which the field is left open to fluctuating processes... in which action is brought to bear on the rules of the game rather than on the players... an environmental type of intervention instead of the internal subjugation of individuals”.

Governmental practices, or the art of government, began taking on a new form, one that looked to not just the individual but to the entire population; in other words, it dealt with the “problem of population” (2007: 94). Foucault’s account of neoliberalism is extremely important in understanding what this type governmentality aims to do, and it goes beyond the reductive accounts of neoliberalism as a hegemonic ideology that aims to transform the global sphere into a model for unrestrained capitalism. As Chandler and Reid (2016: 3) argued, by drawing on Foucault, neoliberalism in the late 80s and 90s was seen as “the temporary confidence of conservative advocates of market-based policy-making, emboldened by the decline of socialist alternatives, and ideologically intent on the rolling back of the state.”

The logic of neoliberalism – as Foucault (2008: 222) puts it, the “essential epistemological transformation” – is in their “economic analysis”. An important aspect of neoliberal analysis is “the nature and consequences of what they call substitutable choices; that is to say, the study and analysis of how scarce means are allocated to competing ends” (Ibid). By acknowledging competition as the primary object of what underpins neoliberal analysis (and governance), it is clear to see how PMCs in Iraq operated by virtue of the fact that these entities were sought after to create an alternative to government troops. This alternative operates in the same way a private business does and, consequently, the standards and metrics used to hold these entities accountable are the same as those used for a for-profit business (to be expanded on in the next

sections). At this point, the chapter must examine the questions: Does a neoliberal form of governance mean that there is no place for government, or that government must govern according to market principles? Neoliberalism or a neoliberal governmentality is a non-interventionist form of governance or one that champions absolute market freedom without any restrictions. Conversely, as Cotoi (211: 111) explains, that “neoliberal governmentality is very active and interventionist... The interventions are going on, and power seeps through various crisscrossing capillaries”.

At the same time, Foucault notes that a new form of power emerged that enabled states to act upon their interests. However, on the one hand, this power does not operate by the same mechanics as discipline, in which power is applied to the body to reach certain objectives, and to correct the behaviour of those who operate outside of the juridical system (2003:242), or operate as the sovereign power, which can determine the “right of life and death”, even though the “balance is always tipped in favor of death” (2003: 240). Instead, this new form of power aims to “rule a multiplicity of men to the extent that their multiplicity can and must be dissolved” (Foucault, 2003:242) to monitor their actions, utilise them for production and have the ability to punish them if they operate outside the approved domain set by the state. Foucault defines this biopower (2003: 242-243) as a new mechanism meant to control the ‘lives’ of the population through the regulation of birth rates, the spread of diseases and epidemics, and mortality.

Foucault adds that biopower “does not exclude disciplinary technology, but it does dovetail into it, integrate it, modify it to some extent” (2003:242). In other words, biopower transcends disciplinary and sovereign powers and, as Place and Winter (2013:310) noted, “biological existence evolved into political existence”. What this means is the state has managed to effectively use new means to exercise power over people, politicising the biological phenomenon to monitor citizens and maintain security. As Lemm and Vater observed, the

“*modus operandi* of the ‘new’ post-sovereign techniques of power is to frame the hazardous play, the vital dynamics, the aleatory of life in the general population”, adding that “the post-sovereign techniques of power *pathologise* life’s vital normativity... by reducing it to normality”.

Foucault (2003: 243) explains that this mechanism does not emerge as an “anatomy-politics of the human body established in the course of the eighteenth century” and he subsequently defined this approach as the ““biopolitics” of the human race”, that is, a mechanism to maintain “control over relations between the human race, or human beings insofar as they are species, insofar as they are living beings, and their environment, the milieu in which they live” (2003: 245). Foucault’s insight into the mechanisms through which the state quells its population by infringing upon their biological functions demonstrates how the state’s sovereignty is no longer meant for control of its borders, but the control of its citizens. It would follow that we need to study what it is that biopolitics introduces, what its main features are, and how it is linked to neoliberalism.

Biopower, Political Economy and the Question of Security

To answer the first question, one must look at the defining characteristics that Foucault assigns to biopolitics and examine how they affect the population. One of its main features is that it “incapacitates individuals, puts them out of the circuit or neutralizes them” (2003: 244), and this is carried out by eliminating, for instance, those of old age who are no longer productive members of society. This leads, Foucault reasoned, to the establishment of charities to deal with such cases. More important is how Foucault demonstrates that these charities, previously organised by the church, serving the needs of everyone, were now selective and “economically rational” (2003: 144). This has established biopolitics as a form of power that operates within a similar framework to that of rational choice theory, selectively working to eliminate anything deemed wasteful while constantly maximising its capacities, as the case of charities

demonstrates. Furthermore, what we are presented with is a form of control that aims to secure the sovereign by rendering the population powerless under the control of biological regulations. As such, there are three defining characteristics that Foucault gives biopolitics (2003: 245-246). First, it “deals with the population” as a “political,” “scientific,” and “biological” problem. This established biopolitics as a multi-disciplinary technology that aims to govern the population through a variety of means that are no longer restricted to political grounds.

From this point emerges Foucault’s second characteristic of biopolitics (2003: 246), which is that “the phenomena addressed by biopolitics are, essentially, aleatory events that occur within a population that exists over a period of time”. This means that the circumstances that trigger the rise of biopolitics do not manifest themselves through central planning or do not have a top-down structure; instead, they are random events, such as a plague, terrorist attacks or threats to the security of sovereignty, and take place “over a certain period of time.” Finally, the third characteristic that defines biopolitics (2003: 246), according to Foucault, is that it “will introduce mechanisms with a certain number of functions that are very different from the functions of disciplinary mechanisms”: for instance, “forecasts, statistical estimates, and overall measures”.

What this means is that biopolitics, unlike disciplinary mechanisms, aims to modulate and preserve a kind of balance among the population. Based on Foucault’s interpretation of the third characteristic of biopolitics, there is a sense of economic language that infiltrates his language, specifically when referring to “equilibrium” (2003: 246) and how it is the function of biopolitics to maintain that equilibrium and keep affairs at a moderate level, in part through the already-established political dynamic. As Peters (2007: 166) noted, “Foucault examines government as a practice and problematic that first emerges in the sixteenth century and is characterised by the insertion of economy into the political”.

This, again, highlights the fact that biopolitics works within a framework of rational choice because, “by the insertion of the economy into the political”, decisions are made not just on the basis of what is best in terms of what is good for the state in absolute political terms but also what is the least costly choice that can maximise the utility brought on by such decisions, thus satisfying the criteria of maximum efficiency and moderation. To put this in more concrete terms, how would biopolitics translate with regards to security? Does it seek to eliminate threats, corruption and crimes? Or is the objective to maintain these threats at certain acceptable limits? The research raises these questions for the following reasons: first, in his discussion of security, Foucault (2007: 19) demonstrates through the example of theft how we might come to think of the perpetrator, the crime committed and the types of punishment said perpetrator should receive. On the one hand, the person can be incarcerated while receiving “work of transformation”, as well as observation techniques that could determine the likelihood of the person committing a crime before it even happens. Such is the normal operating procedure of the law, that for a crime committed, such as theft, the thief would be incarcerated as a form of behavioural correction.

Alternatively, Foucault (2008: 19) identifies another technique or “modulation based on the same matrix, with the same penal law the same punishments, and the same type of framework of surveillance”, along with the behavioural correction programmes, also subjected to questions regarding the “rate” of this crime, the possibility of determining, through the use of statistics, the “number of thefts at a given moment, in a given society.” Foucault provides these two techniques to set up a blueprint for his main idea regarding how best to manage the security of the population, as he asks about (2007: 20) “how to keep a type of criminality, theft for instance, within socially and economically acceptable limits and around an average that will be considered as an optimal for a given social function.” At this point, one can extrapolate what Foucault aims to achieve, and that is the construction of a framework for the security of

populations through or based on, cost-benefit analysis. This means as Ewald et al. (2013: 4) explained, that the biopolitics approach to crime as analysed by Foucault is based on the “calculus of the costs and benefits of crime, the value provided by the management of crime and the exercise of power”.

Security as Laissez-Faire

On the other hand, the dispositif, namely security has the “constant tendency to expand,” which Foucault describes as “centrifugal,” because there is always an expansion in terms of the methodology used for security measures such as “production, psychology, behaviour, the way of doing things of producers, buyers, consumers, importers, and exporters, and the world market” (2007: 67). Foucault’s description of security clarifies that large amount of data aggregated from different fields can help explain patterns of behaviour that will allow the state to maintain control over and stabilise the population. While the idea behind discipline is that there must never be anything out of its control, and “the smallest infraction of discipline must be taken up with all the more care of it being small,” (2007: 67-68), security “‘lets things happen’. Not that everything is left alone, but *laissez-faire* is indispensable at a certain level” (Foucault, 2007: 68). In other words, security allows some space for things to function without having to control every aspect of it; it is about allowing things to happen to a certain degree to maintain the overall stability of the system. This goes back to the idea that a biopolitical governmentality is about the preservation of a balanced system that aims to achieve this not by curbing actions deemed unlawful but rather by letting them happen at a certain level.

Foucault’s discourse on security as being a mechanism that allows things to happen at a certain level and being “laissez-faire” is the link to the third point this research addresses, and that is his conception of liberalism (and its evolution) and how it fits with security. *The Birth of Biopolitics* presents, in a way, the last stage of evolution in Foucault’s thoughts as he provides his perspective on economic liberalism and opens the debate regarding his “neoliberal

moment”. It is not the purpose of this research to prove Foucault’s affinity for neoliberalism but to link his understanding of it to the issue of security. Before delving into Foucault’s own lectures, it is important to include Lemke’s summary of the lectures as it provides an overview of Foucault’s discussions on the evolution of governmentalities, in which he notes: “the 79 lectures focused on the study of liberal and neoliberal forms of government” (2001: 192).

Care of the Self as a Rationale for Biopolitical Governmentality

Foucault maintains that to understand what biopolitics means and how it functions, it is necessary to understand a new type of government rationality whose essence is “the self-limitation of governmental reason” (2008: 20). As noted earlier in the research, Foucault introduced the concept of *raison d’État* to describe the logic by which governments operated, which means governments act according to what is best for their interests and maintaining their sovereignty. However, this new type of rationality involves a restraint on *raison d’État*, a governmentality that could oppose the unrestricted behaviour by saying “I accept, wish, plan and calculate” and “that all this should be left alone”, which Foucault refers to simply as “liberalism” (2008: 20). And in keeping with his theme that has occupied his previous lectures, Foucault (2008: 21) reveals that “the central core of all the problems that I am presently trying to identify is what is called population”, which he considers the appropriate platform for understanding biopolitics.

This means that the form of governmentality liberalism suggests is one that can offer the population a type of “laissez nous faire” (Foucault, 2008: 20).²⁰ To put it in Foucault’s (2008: 246) words: “we have an attempt to decipher traditionally non-economic social behaviour in economic terms”. In other words, applying an economic framework to other non-economic

²⁰ It is worth noting that for Deleuze as well as Foucault, the idea of controlled societies became compatible with neoliberalism, as it marked the “return of the ‘social’ as a mode of government” and under such conditions, individuals are forced to accept uncertainty and risk as a way of life (Gilbert and Goffey 2015: 17 & Chandler and Reid 2016).

factors would be the first step towards creating a neoliberal-biopolitical governmentality. A neoliberal governmentality sets the market as the barometer of society, not in the purely monetarist sense, but more in terms of freedom. It uses that market freedom to model a free society, one that encourages choice and individual responsibility.

Simply put, a market that governs itself is reflected onto society and translates into care of the self. Foucault (2010: 44) suggests that “care of self” is tied in with the notion of “self knowledge, [*sic*]” and elaborates further by stating that “one cannot take care of oneself without knowing oneself”. In other words, to be able to take care of ourselves, we must start by knowing who we are, and the act of doing so reflects a kind of truth-speaking or, as Foucault (2010: 45) said, “the obligation to speak the truth, procedures and techniques of governmentality, and the constitution of the relationship to self”.

Foucault’s conceptualisation of the “care of self” is the underlying theoretical framework for a neoliberal governmentality as “the individual’s transformative activity is essentially reduced disciplining of the inner self”, as Chandler and Reid (2016: 5) suggested.

Liberalism, the Limitations of Liberal Governmentality and the Birth of Neoliberal Governmentality

To understand liberal rationality, Foucault (2008: 22) stressed that “only when we know what this governmental regime called liberalism was, will we be able to grasp what biopolitics is”. In other words, Foucault demonstrates that biopolitical governmentality has a form of liberalism embedded within it, and only when one can grasp what the concept of liberalism referred to is can one understand the meaning of biopolitics. Foucault explains that “liberalism opposed to *raison d’État*” has come to represent “the economic truth in the first place, within governmental reason” (2008: 22). Two ideas emerge from Foucault’s statements: first, liberalism presents a new technology for governance, a biopolitical technology, specifically; second, this new technology of government is set up against the national interest, or against the

self-interest of the state. One way of looking at how liberalism changes the mechanism and logic of the state is that it withdraws its position from the centre and allows other subjects (the population) to fill it. Similarly, Gane (2012: 626) argues that for Foucault “in the liberal political economy the role of the state is to watch over the market and to intervene only when it is necessary to protect its freedom”, and adds that “This... is reproduced in the model of the panopticon: a form of government for which watching, for the most part, is power enough”. Thus, to summarise this section, liberalism presents the idea of exchange, and to that end, we need to ask: What does liberal governmentality offer? Gane (2008: 353) captures the logic behind Foucault’s work when he states that his lectures focused on the analysis of the works of Adam Smith and Adam Ferguson, and how they “invented a distinctive conception of civil society from that of Hobbes, Rousseau or Montesquieu”.

Given that our focus is not liberal but neoliberal governmentality, the chapter now needs to shift its focus and look at one of the essential components that structure this paper, i.e., to analyse the ontological foundations and the mechanisms of neoliberalism based on Foucault’s application of political economy.

The Liberal Art of Governance: Liberalism, National Interest and the Generation of Freedom

Before engaging with Foucault’s analysis of liberalism, we have to clearly establish the idea at the centre of liberalism which is the idea of exchange as the main mechanism through which society and the state operate. That being said, upon returning to Foucault’s lectures, one begins to understand what he meant by tracing the genealogy of liberal ideas, with the first step being (2008: 29-30) “the connecting up of *raison d’État* and its calculation with a particular regime of truth that finds its theoretical expression and formulation in political economy”, while adding that in the sixteenth and seventeenth centuries, governmental regimes were marked by excessive intervention and regulatory powers. However, the turn of the eighteenth century saw a transformation. This transformation, Foucault notes (2008: 30), was seen as the best

government rationality which involved minimal intervention and suggested that “the site of truth is not in the heads of the economists, of course, but is the market”. The ideas represented in Foucault’s analysis of liberalism are focused on the outcome of decentralising the state’s power by modelling its political regime according to market principles.

The point Foucault is trying to make is that first, liberalism has developed a framework that aims to limit the practices of governmental reason by infusing the political aspects of the state with an economic regime. The latter is based on the principles of *laissez-faire*, which allows personal freedoms, autonomy, and places the individual ahead of the state. Foucault’s second point about the liberal regime is that economics, by itself, will not generate a discourse that can be true or rational (2008: 30); instead, it is the market, which is comprised of a collective of individuals that act according to their interests, which can bring about a discourse of truth and rationality and, logically, this rationality can help overcome national interest. As Connin (1990: 287) explained: “Classical liberalism supported the notion that society as a whole would begin to prosper as the level of personal freedom or autonomy increased”. As such, Foucault uses liberal governmentality because, first, the idea of governmentality itself, as Lemke (2000: 4) notes, is to describe the “individual’s capacity for self-control and how this is linked to forms of political rule and economic exploitation”. Second, the main difference between the liberal art of government, as opposed to national interest is that it does not “so much ensure the growth of the state’s forces, wealth and strength, to ensure its unlimited growth, as to limit the exercise of government power internally” (Foucault, 2008: 27).

This sheds light on the starting point for when the state’s political interests became market-oriented, at least in theory, and more importantly, it helps us understand Foucault’s views on economic liberalism. In the same vein, Foucault expands on the idea of how the market has served as the alternative governmentality to the previous forms of state intervention, linking the work of Smith to the idea that the “new *raison d’État*” by which he meant “reason of the

least state” (2008: 53), is precisely what the liberal art of governmentality entails. What Foucault (2008: 53) tried to establish was, on the one hand, mercantilist regimes had been adopted by European nations between the sixteenth and eighteenth centuries in which gold became the source of wealth. If one nation became richer, it was entitled to a greater share of the gold stock, forcing other nations to become poorer. This, according to Foucault (2008: 53), risked developing a “zero-sum game, with the enrichment of some at the expense of others”. On the other hand, under a liberal governmentality, freedom of the market represented the new national interest. In other words, Foucault’s (Ibid) argument focused on Adam Smith’s idea, as well as the advocates of laissez-faire and, to put it simply, freedom of the market creates “the natural price or the good price”. This meant that unlike the mercantilist regimes that risked a zero-sum game, liberal governmentality would ensure “the beneficial effects of competition will not be divided unequally”. In other words, a liberal mode creates a natural equilibrium.

It is important to note that what Foucault was endorsing should not be understood strictly in terms of economic logic; it should not be looked at from the reductive point of view in which the market erodes the status of the government. Rather, it is through the idea of economics that the market schema can be applied to other domains of individuals’ lives, which would provide a better understanding of how the concept of least government operates. It is worth noting that under economic liberalism, aspects such as free trade must still be subject to economic regulations to prevent the creation of monopolies or hegemony by one country over another, as Foucault (2008: 64) suggested. In other words, while liberalism guarantees the freedoms of individuals through freedom of the market, certain restraints have to be implemented to prevent the creation of zero-sum games because it is not in the natural order of liberalism to inhibit such scenarios from taking place. More importantly, liberal governmentality does not have the internal mechanisms that would prevent one country’s dominion over the other, meaning that

for one country to become stronger and independent, correspondingly, the other country must become weaker and dependent.

Even with this new technology of governmentality brought on by liberalism, Foucault (2008: 65) refuses to take it at face value, challenging the notion by expressing that “freedom in the regime of liberalism is not a given”, adding that “freedom is something which is constantly produced... with, of course [the system] of constraints and the problems of cost raised by this production”. Foucault’s analysis is greatly influenced by Hayek, who, according to Connin (1990: 300), saw that any form of “social engineering” is flawed because it undermines the individual’s capacity to understand and develop the world they live in. Hayek also thought that philosophers like Rousseau were “indistinguishable from contemporary socialists... who propose grand ideas about restructuring social institutions and call for economic planning to usher in ‘social justice’” (Connin: 1990: 298). Similarly, Foucault’s understanding of society was more influenced by Smith and the physiocrats than by Rousseau, as noted earlier.

Security Under a Liberal Governmentality

Foucault (2008: 65) elaborates on this, claiming that the reason liberalism has such restrictions embedded within it is because it takes into account the calculation of “security”, referring to the fact that the liberal framework is designed to “determine the precise extent to which and up to what point individual interest, that is to say, individual interests insofar as they are different and possibly opposed to each other, constitute a danger for the interests of all”. Foucault’s problem with liberalism lies in the fact that it tries to manage individuals’ affairs by limiting the freedom of others if it might be a source of harm and vice versa. This again brings up the point of Rousseau’s concept of the social contract: that in order to establish a civil society, there has to be a sovereign power which, through the body of Government, will execute the laws while having the scale balanced between the power of government and the people.

To put this in another way, Behrent (2015: 28) notes, Foucault “shows us, in short, that liberalism’s problem is that it is not liberal enough”, in that the freedom guaranteed by liberalism is concealed in the fact that, paradoxically, the state must take away some individual liberties to ensure society’s freedom. Consequently, one can identify Foucault’s critique and refusal of the liberalist regime as the same moment that he decided to use neoliberalism as a new and more suitable form of governmentality. Interestingly, Foucault’s identification of “security” as liberalism’s obstacle uncovers his understanding, which is shared by many of the modern neoliberal and neo-conservative theorists and politicians. To better understand Foucault’s neoliberal-biopolitical governmentality, it is important to engage with the underlying philosophy entailed within the neoliberal arts of government.

Neoliberal Governmentality and its Variations

A question that would follow is: What kind of governmentality is offered through neoliberalism? Gane (2012: 630) presents four “typologies” that could identify both liberal and neoliberal governmentalities and their “connected models of surveillance and regulation”. As such, the first typology, according to Gane (2012: 630), is based on “surveillance and *discipline*”, which resembles the idea of the panopticon, whereby the market, as well as the citizens, are constantly being monitored by the state, and the idea of surveillance (and security by extension) is in and of itself is “discipline enough”, which can be classified as a liberal governmentality. The second type involves control (Gane, 2012: 630-31), except unlike the panopticon, where citizens are restricted to certain places, this one allows mobility and, instead, “controls” citizens through “technologies of tagging and tracking”. Gane (2012: 632) adds that this type of governmentality is located in the middle of the spectrum of neoliberal and liberal ideas as it is mainly concerned with the transfer of power from state to market, or to “commercial agencies that are well equipped to track motilities of different sorts”, finally noting that what is missing from this is the significance of “the marketisation of the state”.

Before turning to the third and type of governmentality, it would be wise to carefully examine Gane's idea regarding the marketisation of the state, more specifically the idea of outsourcing the function of tracking citizens to the market, as it raises multiple issues. First, there is the idea of "accountability", pointed out by Gane (2012: 616), for if the government gives a private entity the task of surveillance of citizens, who is held accountable if that entity does not abide by the law? If the entity is also in charge of security measures involving more than surveillance, as is the case with, for example, PMCs, who is held responsible if they operate outside of the law? The third type of governmentality, as Gane (2012: 631) sees it, "is through interactivity", which is described as a type of reverse-panopticon, where the "the many watch the few" or "the individuals look at the market guidance rather than the state". The idea of the citizens utilising the market rationale to apply a similar framework to their lives paints citizens or individuals as consumers; however, Gane (2012: 631) argues that instead of examining this through the framework of Bauman and "dismissing consumer freedoms as fictions", it is also valid to use Foucault's theorisation regarding the "underlying governmentalities," shifting individuals from being "passive consumers" into "willing and wilful participants".

The fourth and final type of governmentality, according to Gane (2012: 631-32), is that of "surveillance through competition". This particular type is, perhaps, the most important one, given that it is centred on the Foucauldian analysis of ordoliberalism, stressing the idea that this type is *not* modelled according to laissez-faire because the state has an integral role in maintaining the level and existence of competition. The key for the government to function in this role is to become its own monitoring agent or, as Gane puts it "audit to promote competition". The difference between this type of governmentality and previous forms is that the state no longer monitors the market, and even though society and the political system have been modelled according to market principles, what is necessary for such a system to function

is the “connection between regulation and competition” (Gane, 2012: 632). To that end, by creating, enforcing and maintaining competition, this governmentality serves to “manufacture marketized forms of competition where previously they did not exist”.

Accordingly, one has to acknowledge the critiques of neoliberalism, which tend to be reductive and focused solely on the implications of the ideology, without acknowledging the underlying benefits it might offer. Similarly, Lemke (2000: 7) indicates that the critique of neoliberalism is not holistic because it is directed towards “knowledge and power, state and economy, subject and power” while recognising that neoliberalism offers a governmentality that works towards “‘bridging’ these dualisms”. Therefore, placing the analysis in this context, one can begin to understand why, on the one hand, liberalism was, in Foucault’s analysis, not the most suitable technology for governance and, on the other hand, neoliberalism was a better form of biopolitical governmentality. Zamora (2015: 64) notes that the “‘last’ Foucault of the early 1980s is surprising in his thinly veiled sympathy for, and minimal criticism of, emerging neoliberalism”. However, Gane observes that “for Foucault, neoliberalism is not the same thing as anti-statism or the devolution of powers from the state to the individual, but about the constant push to define and regulate social life through the principles that come from the market” (2012: 613).

Ontological Shifts from Liberalism to Neoliberalism

Thus, as we have established that under a liberal governmentality, the central mechanism is defined as exchange, we must also outline the mechanism of neoliberalism, which can be summed up in one word: competition. Brown (2015: 36) adequately sums up the shift in the mechanism, suggesting that “this subtle shift from exchange to competition as the essence of the market means that all market actors are rendered as little capitals... competing with, rather than exchanging with each other”. More importantly, central to the mechanism of neoliberalism and neoliberal governmentality is that individuals are transformed to become entrepreneurs of

the self (Brown, 2015: 36). As such, by becoming entrepreneurs, they also embrace a kind of “care of self”, which allows for greater individual autonomy and freedom. In other words, we can stipulate that freedom is an inherent part of neoliberalism, unlike liberalism, where it constantly has to be created. Therefore, Foucault’s embrace of neoliberalism starts out in the form of a critique of liberalism (2008: 68), which concerns itself with the paradox that the ideology creates, pointing out the fact that, for example, in the US, during Roosevelt’s era, political freedoms or otherwise were safeguarded, but it came at the cost of government “interventions in the market represented by the basic welfare measures”.

This cemented the idea that the only way individuals can have political freedom is if states intervene and manage the market. As such, for Foucault, the paradox introduced by liberalism, which it cannot escape, arises from the inherent contradictions that it offers, adding that (2008: 69) the Keynesian economic policies of government intervention are not separate from the “crisis of liberalism”. From this point, Foucault (2008: 78) delves into the nature of neoliberalism, reviewing the phenomenon from its two categories: German and American neoliberalism. The former is concerned with critiquing “Nazism, and finally, post-war reconstruction”, while the latter is focused on critiquing Roosevelt’s economic policies of “state interventionism” and is considered one of the hallmarks of those belong to the left of the spectrum of politics (2008: 78-79).

The neoliberal, or Chicago school, neoliberalism and the type of governmentality that it creates is perhaps the most prevalent form of neoliberalism and the focal point for its critics. In the introduction to *Capitalism and Freedom*, Milton Friedman (1962: 1-2) challenges former President Kennedy’s famous words of “what you can do for your country”, suggesting this gives the government the status of “the master or the deity”, while also noting that “country is the collection of individuals who compose it, not something over and above them”. Friedman (1962: 2) expands on his idea by claiming that it is not the role of government either to perform

any kinds of services for its citizens, but rather that it is a tool, a via-media which can be utilised by individuals to carry out “individual responsibilities... and above all, protect our freedom”. Following this logic, a neoliberal governmentality is a suitable alternative to the liberal one, precisely because, as Foucault noted (2008: 216), it came into being differently to German neoliberalism, as a countermeasure to Keynesian economic policies (the New Deal, specifically). American neoliberalism, thus, offers a platform for a type of governmentality that would, first, act against the national interest, and, second, guarantee individual freedom through self-reliance and personal responsibility.

Foucault’s critique seems to be in line with that which modern neoliberal have been repeating since the ideology was popularised with the rise of Thatcher and Reagan in the UK and the US, respectively. In fact, former President Ronald Reagan said these words in his first inaugural address (1981): “Government is not the solution to our problem, government is the problem”, while Thatcher remarked during a House of the Commons speech (1975), with respect to the UK’s economic performance at that time, “the government have [*sic*] not alternative,” or TINA - there is no alternative (Berlinski, 2008), as it is more commonly known. It becomes clear that for neoliberals, the idea of the state represents the source of conflict for the ideology itself, and the state, if left to its own devices, could become a hegemonic force; therefore, the market is needed to prevent such an event from happening. However, one point of divergence from Thatcher and Reagan’s neoliberalism to the model that Foucault theorised about involves three aspects. The first is that “neoliberalism should not be identified with laissez-faire, but rather with permanent vigilance, activity, and intervention” (2008: 132). Gane (2012: 631-32) observes that the key to achieving this would be “governmentality through surveillance to promote competition”, adding “through processes of self-surveillance and intervention or what might be called audit to promote competition, and thereby to achieve legitimacy in the face of the market.” Second, Foucault (2008: 187) critiques the state itself,

differentiating two themes that identify the problem of the state, the first being “the state possesses in itself and through its own dynamism a sort of power expansion... an endogenous imperialism constantly pushing it to spread its surface and increase in its extent”. The second theme Foucault pointed out is the “evolutionary implication” within the different forms of state control produced through regimes built on state interventionist policies, such as welfare and fascist states (2008: 187). Liberal governmentality is then pegged as a somewhat “fascist” state, for it seeks to control individuals through welfare policies that maintain dominance over those that seek assistance.

Neoliberalism and the Rise of Financialisation

To close, Lazzarato (2009: 110) notes that Foucault’s dissection and criticism of liberalism exposes the “apparatus of biopolitics” and ties it with the notion of exercise of power over life (biopower). Foucault (2008: 110) explained that from the ordoliberal’s point of view, Nazism was the product of Keynesian-inspired interventionist policies in economic affairs: “Keynesian economics formed a firmly secured whole in which different parts were bound together by the economic administration that was set up” (2008: 109)²¹. On the other hand, American neoliberalism (2008: 217) presents a different facet by offering a threefold explanation for the rise of this system of thought in the US: policies attributed to Keynesian economics, wars and the social pacts acting as safety nets and, finally, the increasing social intervention by the federal administration. Foucault (2008: 243) demonstrates that in contrast to ordoliberalism, American neoliberalism is more “radical,” referring to the fact that the “generalisation of the economic form” is extended beyond the market to even reach the “social body and including the whole of the social system”. Here, Foucault is stressing the idea that for the neoliberal governmentality, society ought to be defined in relation to the market (2008: 147); that is, not

²¹ Foucault (2008: 109) mentions earlier four elements that gave rise to Nazism, including “a protected economy, state socialism, economic planning, and Keynesian interventionism”.

through its commoditisation and being based solely on the exchanges between consumers and the market, but through the “dynamic of competition,” clarifying that the “homo oeconomicus” the market seeks is one of “enterprise and production”.

It is important to note that Foucault’s intention to develop a neoliberal governmentality was not to commodify society but rather to free it from state dominion and, more importantly, to develop it as a new form of biopolitical governmentality that could overcome the exercise of power over the right to life by using the free market as the mechanism or dispositif to do so. However, Lazzarato (2009: 109) would note that Foucault’s analysis does not consider the “role of financialisation” which has contributed to the very same thing that Foucault did not anticipate or, perhaps, he tried to avoid. Lazzarato (2009: 309) adds that financialisation, as a phenomenon, has contributed to the “individualization, securitization and depoliticization” and has eliminated the policies introduced by the “Welfare State and Fordism”. A major element of the financialisation of the economy involves citizens becoming indebted, a phenomenon that Lazzarato himself devoted a book entitled *The Indebted Man* to. His argument is that debt, in all its forms (mortgages, credit card debt, etc.), has become a way of life for people, and it also becomes the driving force for their lives, characterised by endlessly seeking to repay their debts while, at the same time, taking on new debt to keep up with the consumerist culture. Bauman (2000:73) adds that in the modern consumerist society, everything is a choice “except the compulsion to choose – the compulsion which grows into an addiction and is no longer perceived as a compulsion”. Thus, the more people consume, the more they become indebted, and this way of living has contributed to the insecurity of society as a result of a lingering risk of defaulting on debt, which could lead to the collapse of the entire system, as evidenced by the 2008 global financial crisis.

Similarly, Krippner (2005: 174-175) notes that “Consumers are confronted daily with new financial products and financial ‘literacy’ is touted as a core competency”. This has a direct

implication on these individuals for a number of reasons. One is that they become more prone to engage with variegated market activities, such as taking out mortgages and investing in the stock market, as means to generate income in addition to their jobs. While it is important to stress that Foucault did not directly address the aforementioned aspect as being an integral part of neoliberalism, the rise of financialisation is one of the direct effects of the neoliberalisation of the state. This means that the evolving economic apparatuses that have emerged with the financial economy were not intended to be part of the neoliberal state. They were, however, a result of its logic through the promotion of competition, coupled with a type of laissez-faire understanding of neoliberalism. As such, the marketisation of state resources has resulted in the creation of for-profit entities in all domains.

The rise of financialisation and marketisation of resources has indirectly resulted in a new phenomenon. This new phenomenon was mentioned by Foucault and stated earlier in the chapter. It is the manifestation of biopolitics. This brings us back to our earlier point of neoliberalism as a form of biopolitics, in the sense that different aspects of life are seen through the lens of numbers. What, then, is the problem of reducing political and social aspects to numbers and metrics that mirror an economic regime? For one thing, as Muller (2018: 40) suggests, “numerical metrics also give the appearance... of transparency and objectivity. A good part of their attractiveness is that they can be understood by all”. This is particularly critical to highlight for two reasons. First, by assigning numerical values to social and political norms, it undercuts their weight and value by reducing them to the level of a ‘service provided’ for which we can measure the ‘level of satisfaction’. Second, the metrification of the political and social reverses the role of democratic accountability and turns it into another mechanism of neoliberal reason that applies an economic grid to non-economic domains. For these reasons, we will argue that a Foucauldian analysis can highlight the gaps in the literature on accountability which will help us with our main topic, that being the accountability of PMCs.

In the next section, we will aim to demonstrate how accountability through data analysis is intrinsic to how neoliberalism functions.

Neoliberalism, New Public Management and Data Analysis

Dykstra (1939: 2) notes that even though a responsible government is “desirable”, the more important question is “For what and to whom shall it be responsible? We should know further who will be shouldered with responsibility and whether responsibility can be achieved by structural devices”. To understand how accountability has been redefined and how that relates to PMCs in Iraq, it is important to demonstrate, through examples, how this change was promulgated, which factors set it in motion and what its impact has been. On a theoretical level, one can say that neoliberal governance is producing new kinds of subjectivity that alter our perception of the very foundations that make up our world, such as education, security, and democracy. This means that the norms have changed based on the production of new realities produced through neoliberal logic. The consequences of the change of norms results in the formulation of new relationships between the state and the private sector. Le Galès (2016: 3) cites “Welcome to the ranking world”, a phrase popularised by Christopher Hood to demonstrate how everything is being reduced to numbers and rankings, with the most critical aspect being the assigning of numerical values or even key performance indicators (KPIs) to everything to measure its performance.

This is not to say that numbers are irrelevant, nor that we should not use any sort of measurement to assess governmental or private entities. However, the metrification of society and government, a process that mirrors the corporate world, seems problematic alongside democratic values and our understanding of accountability. As Hanberger (2006: 2) observes, accountability in the modern sense has been heavily influenced by aspects of the private sector, such as new public management (NPM) techniques. This implies that rather than holding an individual/entity responsible for their actions, the new perception of accountability ‘measures’

how well they performed. In essence, the focus is on performance rather than identifying who is responsible and how to deal with them accordingly. Foucault's work can thus be used to demonstrate why this skewing of the definition of accountability is not a foreign or alien idea; instead, it is within neoliberal logic that accountability is subjected to the same standards held by private sector techniques of governance.

Muller (2018: 34) suggests that in addition to the new "culture of accountability", there is a distinct set of business-oriented ideas that have managed to become the principles upon which the modern system of governance is founded. Specifically, Muller refers to Robert McNamara's revolutionisation of managerialism. Simply put, the essential elements of this set of principles that formed managerialism were "skills and techniques, focused upon a mastery of quantitative methodologies". This was meant to become more efficient and cost-effective; therefore, one could argue the need for numerical evidence and measurement to assess the progress of society. Let us examine what has triggered the shift in our understanding of accountability and how it evolved to become an integral component of modern government.

Behn (1998: 131) put forward a simple argument: proponents of NPM claim governments are too bureaucratic and slow and, because "citizens expect government to produce results..., we need a new way of doing business, a new paradigm for the management of government". On the other hand, Behn (Ibid: 132) demonstrates that opponents of this view, while acknowledging the cons within their approach, recognise the most important aspect of it, and that is "it is accountable to its citizens". That being said, it seems more focus is placed on obtaining higher results, which is more important than assessing the factors that contribute to that value, or even if these factors are derived from democratic principles. But, as this chapter has demonstrated thus far, the idea of democratic accountability has been overshadowed by the increasing role of non-state actors who, in many ways, act in the capacity that has previously been carried out by the government.

Summary: Neoliberal Governmentality, Biopolitics and Security

Thus, the questions confronting the research are as follows: given Foucault's views that liberalism's concern with security is considered an obstacle in freeing society from state control, does this mean that freedom should come at the expense of human security? Also, given the fact that for the neoliberal paradigm, all resources are more effective under the private sector, should human as well as state security become privatised and outsourced to private military contractors? How is this new form of biopolitical governmentality designed to operate? Given the fact that Foucault's analysis of neoliberalism did not foresee the effects it brought about, what is the assessment of the marketisation of security through a Foucauldian analysis?

So, to concretise what FDA (next chapter) can explain regarding PMC accountability, the next chapter will set out our methodological approach. This, along with the theoretical framework we have developed, are the key to analysing the empirical chapters that will focus on different dimensions of accountability.

Methodology: A Foucauldian-Inspired Discourse Analysis

This section will outline our methodological approach for this thesis to illustrate how a Foucauldian analysis can be used to determine the renegotiation of accountability in relation to PMCs and the neoliberal mode of governance. Given the qualitative nature of the topic, the best way to accomplish the methodological framing of the argument will be based on an FDA. This section highlights why this particular methodology was chosen and how it will be used later in the thesis, where government documents will be subjected to FDA. Our aim is to show how accountability has been re-interpreted through discourse that is steeped in neoliberal ideas.

Given the topic and the type of material we intend to examine, the nature of our methodology can be described as qualitative. Bryman (2012: 380) describes the qualitative method as "a research strategy that usually emphasises words rather than quantification in the

collection and analysis of data”, further adding that: “As a research strategy, it is broadly inductivist, constructionist, and interpretivist, but qualitative researchers do not always subscribe to all three of these features”. To illustrate how and why this particular method suits our topic and research questions, the next sections will outline the aspects of qualitative research and expand on how we intend to use FDA to explore the renegotiation of PMC accountability.

Why this methodological approach and this method?

Given the nature of the topic, we would argue that our methods used to analyse and contextualise our research are not only influenced by the main methodological approach. As Gray (2013: 19) puts it: “the choice of methods will be influenced by the **research methodology** chosen. This methodology, in turn, will be influenced by the theoretical perspectives adopted by the researcher, and, in turn, by the researcher’s epistemological stance”. What follows will be a breakdown of our method and theoretical stance, in which we will justify these choices and explain how they fit within the wider research design/methodology.

From an epistemological standpoint, a quantitative approach takes a positivist view, meaning that “knowledge is discovered and verified through direct observations or measurements of phenomena” (Krauss, 2005: 759). On the other hand, a qualitative approach takes a “naturalist or constructivist view”, whereby “knowledge is established through the meanings attached to the phenomena studied” (Ibid). What we aim to achieve in this thesis is to explain how the concept of accountability is constructed under the neoliberal form of governmentality. As such, we plan to engage with our analysis of PMCs by threading a methodological approach through our main analysis, and subjecting the key texts to FDA.

What is FDA and what makes it different?

Sam (2019: 335) notes that in contrast to other discourse analysis methods that are “bottomup” and “focus on linguistic structure and language practice (e.g., grammatical structures or syntax), FDA takes a “top-down” perspective, focusing on broader political, ideological, or historical issues as they relate to power and knowledge through discourse”. When we apply this particular methodology to analyse the subject of PMC accountability, we need to focus on how the discourse by governments has been shaped. More specifically, what justified the use of contractors in the Iraq War? How can we extrapolate the US government’s understanding of accountability and, in turn, explain how the term has been *renegotiated* rather than *evaded*?

It is important to note that there is not a single or definitive way to apply FDA; claiming so contradicts the very essence of Foucault’s own work. Sam (2019: 337-8) explains that “to take a decidedly Foucauldian approach to apply FDA as a methodology creates a paradox”, the reason being is “his work challenges and seeks to dismantle existing systems of power”. While this has many implications on how we apply FDA as our methodology, nevertheless, we are guided by our primary focus on showing the transformation of accountability.

Even though Foucault does not have a single way of applying his work, there are guiding principles that can be found in his own writing (Ibid). Kendall and Wickham (1999: 41-2) list five steps when applying FDA, the first of which is “the recognition of a discourse as a corpus of ‘statements’ whose organisation is regular and systematic”. In other words, without recognising that first, discourse is a body of statements that are placed together in a certain order (a systematic way), one cannot conduct FDA. The remaining four steps are “2) the identification of the rules of the production of statements; 3) the identification of rules that delimit the sayable...; 4) the identification of rules that create the spaces in which new statements can be made; 5) the identification of rules that ensure that a practice is material and discursive at the same time” (Ibid). Applying this to our case study, first, we must acknowledge

that the discourse on the PMC body of statements that we wish to expound on is produced primarily through government documents and similar material (that will be subjected to FDA in later chapters) as well as the academic literature.

To understand how PMC accountability has been renegotiated, we need to interpret not just what has been said/written. For that, we not only need to apply the five steps, but we must also turn directly to Foucault's primary work. Specifically, Foucault (1972: 24) explains that discourse is essentially constructed of two parts: that which is 'already-said', but also and equally important, that which is "never-said; an incorporeal discourse, a voice as silent as a breath, a writing that is merely a hollow of its own mark".

What we hear and what we do not hear: interpreting the discourse

Why is it important to examine what is "never-said"? Recall from earlier in this chapter that one of the main themes in Foucault's work, in any domain, is the analysis of power relations. So, when we analyse how accountability is renegotiated for PMCs under neoliberalism, we need to examine the power dynamics embedded in this scenario. Given the two opposites of a discourse, as Foucault pointed out, between explicit and an implicit (discourses), there is a form of power that has a grip on these two poles. This power emerges from what Foucault (1972: 26) refers to as "discursive"; which refers to what is said in an explicit manner and has very specific objectives to reach. In doing so, that which is discursive creates "unities" in the statements that form the discourse, about which Foucault asks: "What is this specific existence that emerges from what is said (here) and nowhere else?" In other words, what are the said/written statements trying to imply beyond what can be read and/or heard? It is through what is not said that discourse can create new modalities and norms that can be accepted as such.

What is not said or heard out loud is what has the capacity to reformulate/renegotiate the subject. These are implemented through what Foucault (1980) termed as the

“power/knowledge nexus”. He (1982: 791) argued that to analyse power relations, one has to look at the “carefully defined institutions”, meaning that to analyse the power of PMCs, one has to first look at it in terms of the institution represented by them. Second, he (1982: 791) suggested examining power from the point of view of the institution or, as he phrased it, “power to power.” Third, Foucault (1982: 791) gives a final aspect for analysing power, demonstrating that:

“insofar as institutions act essentially by bringing into play two elements, explicit or tacit regulations and an apparatus, one risks giving to one or the other an exaggerated privilege in the relations of power and, hence, to see in the latter only modulations of the law and coercion.”

Expounding on that point, Yates and Hiles (2010: 56) provide a good explanation of the power/knowledge nexus as something that “constitutes what is attended to, what is desirable to be done, how people and objects are to be understood, related to and acted upon.” Power is, therefore, exercised first through discourse that it represents.

To analyse the problem of how accountability for PMCs is renegotiated, we need to ask if what is being presented is part of a “systems of norms” (Foucault, 1972: 45), or if it is the truth. Going a few steps further, we also need to better understand how the intersection of knowledge and power can present new norms and realities. Once again, we turn to Foucault (Ibid: 50):

“Who is speaking? Who, among the totality of speaking individuals, is accorded the right to use this sort of language? Who is qualified to do so? Who derives from it his own special quality, his prestige, and from whom, in return, does he receive if not the assurance, at least the presumption that what he says is true? What is the status of the individuals who – alone – have the right, sanctioned by the law or tradition, juridically defined or spontaneously accepted, to proffer such a discourse?”

By asking these questions and applying them to our topic, we can see how, through the adoption of neoliberal modes of governance, legal accountability is renegotiated and presented as “accountability through numbers”. To make this theoretical interpretation more concrete, we will offer an example by surveying government documents to understand the reformulation of PMC accountability.

Transforming the Discourse on PMC Accountability

For our main chapters, the thesis will examine documents issued by the CPA, the GAO, as well as other primary material, to determine, using FDA, how the discourse on PMC accountability has shifted towards accountability by numbers. By doing so, we can demonstrate that in contrast to what the literature on PMCs states, accountability is not evaded but renegotiated. This renegotiation is not done explicitly; instead, it is through the discourse that we can see it. As Arribas-Ayllon and Walkerdine (2017: 114) have noted, when applying FDA, it is important to remember that by discourse, “Foucault does not mean a particular instance of language use – a piece of text, an utterance or linguistic performance – but rules, divisions and systems of a particular body of knowledge”.

The use of FDA, along with the theoretical framework, will illustrate this transformation in the accountability discourse which we seek to analyse. To do so, accountability is looked at from three different perspectives to provide a holistic view in relation to PMCs. First, the thesis will look at accountability to the employer, where we will examine the relationship dynamic between the state and the PMC using our methodology. This will allow us to explore the purpose of PMCs in Iraq and how these entities are a manifestation of neoliberal governance. The thesis proceeds to explore the second perspective by looking at accountability for the actions. This sheds light on the deviation of accountability from its legal and democratic definitions and towards accountability by numbers. Finally, the third perspective this thesis will examine is the accountability towards PMC employees. This section will continue to explore and concretise our objective, showing that casualties, infractions, lack of planning and other factors eventually become about numbers. For each chapter, we will utilise FDA and apply it to various government documents to flesh out the main points needed to make our argument.

Accountability to the Employer

The previous chapters outlined the essential argument of our thesis by showing, first, the tools from Foucauldian analysis that we will use to analyse neoliberalism and security. Second, we will point out what the literature missed in the analysis of neoliberalism in relation to PMCs and accountability. To flesh out our research questions concerning PMC accountability, this and the next two chapters will be divided into the following: PMC accountability towards the employer, accountability for actions and accountability towards employees. The objective is to examine how the concept of responsibility is not evaded or that it needs legal frameworks to enforce it and hold PMCs accountable. Instead, these chapters will highlight the original contribution, which is that accountability is *not circumvented*, but rather *renegotiated as accountability by numbers*.

We will rely on de-classified documents of the CPA and other primary documents from the DOJ regarding the contracts awarded to PMCs and other entities involved in the reconstruction and privatisation processes. The second part will focus on the activities of PMCs in Iraq, and the evolution and re-branding of mercenaries and their roles in managing security, thereby also examining the transformation of security under a neoliberal governmentality. As such, the events unfolding in Iraq with respect to PMCs were the manifestation of a mode of governmentality that operates by allowing security to be transferred to the free-market domain, in this case to PMCs. The result of that shift, aside from what has taken place, is a reformulation of accountability and, to that end, our argument is that an analysis of the effects of security privatisation should consider the following. First, by outsourcing security to private entities it becomes the responsibility of the agent (the PMC) to act in accordance with a set of standards and regulations that govern their conduct, which are the same guidelines that govern corporations. Adhering to these set of standards reflects a level of accountability and responsibility deemed sufficient by the government; in other words, the concept is reduced to

ticking boxes and scoring well on a scale. In doing so, the definition of accountability is transformed from democratic accountability to accountability through numbers.

This and the next two chapters will respond to these points by going through the relevant items in the debate using Foucauldian discourse analysis. The chapter will achieve this by giving a background on Iraq which will help in demonstrating why it was targeted by the US. The chapter will examine primary sources in the form of government documents, including the CPA's orders and regulations, US congress testimonies and hearings, and reports by the GAO and the Commission on Wartime Contracting in Iraq and Afghanistan.

It is important to note that PMCs have acquired legitimacy from the US government, a form of legitimation that influences their accountability to the employer, a point that this chapter will explore. Krahmman (2017: 541) addresses the issue of PMCs becoming legitimate security actors as a result of the "immaterial and socially constructed nature of security" and because security has been thought of as a performance, it has "given way to performativity - that is, the repetitive enactment of particular forms of behaviour and capabilities that are simply equated with security as an outcome". Much like business operations involve certain procedures that must be followed to produce a measurable outcome, security has been judged by the same standards as those of a business, and its outcomes are being measured. On the one hand, the concern here is not that security has an outcome because if we look at it as a function of the state, the outcome means hedging risks and protecting citizens from any source of harm within the state's capabilities. Similarly, the DoD released a report titled *Measuring Stability and Security in Iraq* which presents "performance indicators and measures of progress toward political, economic and security stability in Iraq" (2010: iii).

Even though it is possible to argue that numbers are the quickest and most effective way to assess the situation in Iraq and to determine how security can be assessed based on the numbers of, for example, terror attacks on US bases or densely populated areas in Iraq, or even the

frequency of these attacks in relation to the number of private contractors. The counterargument to this would be that security is not meant to be quantifiable nor is it an experiment that requires replication; it is, however, a function of a sovereign state that allows it to maintain its borders and protect its citizens. Therefore, subjecting security to the scrutiny of numbers, performance, and measurement turns it into a business operation that is only assessed based on those aspects.

We noted earlier that democratic accountability is an essential component of states to determine who gets rewarded for doing well and who should be penalised for wrongdoing. The difficulty in applying this seemingly sensible idea in the case of PMCs operating in Iraq can be attributed to the reworking of the norms brought on by the rise of neoliberal governmentality in general, and, specifically, the intrusion of the private sector into the security domain. Where once security came to mean the protection of citizens and mitigation of risks, it has now been stripped of that meaning and turned into a business venture that is dealt with in accordance with regulations that were reserved for the private sector.

To understand how this chapter fits into our study, let us revisit the research question this thesis is addressing and what our hypothesis is. The use of PMCs in Iraq is one of the most recent examples of private contractors engaging in combat operations on an unprecedented scale. Building on that, how were PMCs held accountable in Iraq? The answer, which is also what formulated our hypothesis, is that by using Foucault's analysis of neoliberalism and security as our theoretical framework, we can understand how the concept of accountability has changed in the presence of a neoliberal governmentality. There is a significant body of work done on PMCs in Iraq and elsewhere (as we will demonstrate), but, and this is our main argument, there is a gap in the literature that does not address how PMCs were held accountable in Iraq. Instead, the prevailing arguments are confined to the weak laws that govern PMCs, the

lack of hierarchical structures and the greed of corporations, as well as the contractors employed by them.

Using FDA as a tool to analyse the discourses of PMC accountability, this chapter will study how they are held accountable by their employer, i.e., the state or private entities. By using a combination of primary sources, our goal is to illustrate, through empirical discussion, the renegotiation of accountability. It is important to note that PMCs are not operating in a vacuum; in other words, they are not free to operate without any government regulations. What this means is that the US government allowed PMCs to operate in Iraq within a space that is regulated by a set of numbers, metrics and codes. By adhering to these codes, they were considered to be operating responsibly, by the International Code of Conduct for Private Security Service Providers Associations (ICoCA) as well as by the government utilising their services. What follows is the question of what that means in terms of (democratic) accountability towards the employer, and by contextualising this question within an FDA, we can understand how neoliberalism economises the security domain and how that links with PMCs in Iraq.

When the literature on PMCs pointed to a lack of accountability, they were, to put it in colloquial terms, ‘barking up the wrong tree’. By examining PMCs and accountability using Foucauldian analysis, what is revealed is an epistemological error in the ways the literature has tackled the subject. Brown (2015: 49-50) observes that a Foucauldian understanding of neoliberalism involves a “normative order of reason that would become a governing rationality, a distinctive ‘art of government’”. This is precisely what Foucault offers that can shine a light on the subject of non-democratic accountability because if we are looking at neoliberalism as an art of government, we might conclude that democracy is subject to this mode of governance and, accordingly, accountability is not about democratic representation but quantifiable results.

Through the neoliberal apparatus, the idea of the state's claim on the use of legitimate force, in this case, the right of the US to engage in combat and other operations, was no longer solely reserved for them. Krahnmann (2010) and Leander (2006) made the argument that states have traditionally maintained their monopoly on legitimate use of force, based on Max Weber's lectures *Politics as a Vocation*, in which he states that: "*If no social institutions existed which knew the use of violence, then the concept of the 'state' would be eliminated, and a condition would emerge that could be designated as 'anarchy'*". Furthermore, "*the state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory*" (1946: 1). In other words, the state is the sole entity that has the right to exercise its force upon the sovereign territory that it reigns over.

What was the nature of PMC activity in Iraq?

Although at the time of the invasion, US troops were carrying out major plots of the operation, as Singer (2004: 4) stated, the number of members from PMCs at that time "dwarfed any past operation". The surge in the number of contractors in Iraq was also not without its downside for, as Cameron (2006: 574) documented in 2004, four Blackwater contractors were killed, which was followed by an "assault on Fallujah in April 2004". Singer (2004: 4) also mentions that near the end of 2004, the number of deaths of contractors had reached 150, and more than 700 had been injured. These figures were higher than for the total number of deaths and injuries of personnel from "the coalition combined and higher than those for any single US Army division." Equally critical is the reason why such high numbers of deaths and injuries from the private military exist; it was because "it takes ten to twelve individuals to support each American or British soldier in a combat, and this support is increasingly provided by PMCs" (Tonkin, 2013: 51). The problem this poses is that, first, the surge in the number of PMC personnel makes it possible that they might engage in combat operations, and second, as Faite

(2004: 3) stated, “some of the activities carried out by private companies may, under certain circumstances, be considered as direct participation in hostilities.”

Nevertheless, PMCs in Iraq continued to carry out operations both in the “active” and “passive” sense (Faite, 2004: 3) in 2004. A report by the Congressional Research Committee (CRC), prepared by Elsea et al. and published on WikiLeaks, states that since the beginning of the war, the US had “increased the types of tasks and roles for which it contracts private companies in military operations”; “nevertheless, many Members are concerned about transparency, accountability, and legal and symbolic issues raised by the use of armed civilians to perform tasks formerly performed by the military and federal employees” (2006: CRC-1). Although it is not surprising to know that more tasks were being contracted out, the real question was that if accountability and the legality of outsourcing security to these private companies had raised concerns for members of the US Congress, why were their services being used? The answer, as we shall explore with more breadth, boils down to cost reduction and efficiency. However, this answer is used merely as the rationale, more so by advocates, and for the purpose of this thesis, we need to look more carefully at this as part of the anatomy of neoliberalism.

Already, the scope of work for the US was too big, and whether this had been calculated before the invasion is irrelevant to this analysis as our main focus is on the ontological foundations for security privatisation. The empirical evidence of the need to privatise security is demonstrated by what Lovewine (2014: 18) referred to as efforts to create a counterinsurgency, which meant that not only did the U.S. need to eliminate the insurgents, but it also needed to train the Iraqi forces for future counterinsurgency operations. But the counterinsurgency operations were not a success, as Singer (2007: 13) illustrates in the battle of Fallujah, and the failure of the operation which resulted in the death of civilians and led the American plan astray. In this incident, according to Singer (2007: 14-15), the botched

counterinsurgency operation came as a result of a series of tactical errors made by Blackwater which, according to a retired army officer cited by Singer, was a recurring scenario.

This also points to another critical point this chapter will look at, that strategies developed by the US military involved (for lack of a better word) a humanitarian element. As outlined by Singer, American troops were meant to develop relations with the local community in Fallujah to gain their trust and, in the meantime, weed out insurgents. The mission failed when Blackwater went into the area without coordination with the military and were attacked and four members were killed, as noted earlier. The incident was widely publicised and forced decision-makers to take action, an action that would involve the military in a gruelling battle, killing countless civilians and military personnel, and turning the area “into a base of operations for Al-Qaeda in Iraq” (Ibid). This is just one example of problems arising from the use of contractors, yet despite this, they were still an integral part of operations. So, the question is: Why is the use of private contractors an appealing option for politicians?

The main reason why it is very difficult to hold PMCs accountable to the employer is due to the nature of economic and political governance modes that made possible a hospitable environment for security marketisation. This is what we intend to expand on by analysing the question of PMC accountability through a Foucauldian analysis of neoliberalism. Specifically, we will attempt to present the argument that even empirical analyses aimed to suspend “sensationalistic” perspectives, as Brooks and Streng (2012: 303) have argued. Although this can occupy the discourse and even cloud judgement, the fact remains that it is not because the code by which private contractors operate is different to that of the state-regulated military (although that does certainly contribute, as we have shown above).

To summarise what we have done up to this point: this thesis has presented different fragments of the problem, including an examination of CSS and traditional IR studies and their

view of security and PMCs, to highlight the strength of our Foucauldian analysis, which can point out the real problem of PMC accountability, and then proceeded to explore the case of Iraq and the nature of PMC work. We used these points to examine how and why PMCs could behave the way they did. To that point, given our objective is to understand how PMCs were held accountable and to show that our case has a unique significance in that matter, our goal in this chapter is to understand how these multiple elements can be synthesised into a unified idea. Thus, the main question we need to ask is how does the regulatory shift for PMCs affect security and what does that mean in terms of accountability? We plan to present an analysis of PMC activity in Iraq, and we will be focusing on human rights violations and the way these companies operated.

PMC Operations: From State to Contractors

As stated in the introduction, the Iraq War presented a unique manner in the way modern warfare is conducted. The first issue to consider was U.S. military capabilities and the level of preparedness and the second issue was the marketisation of war and the shifting of agency from the state to the market. What is interesting is that private contractors did not proliferate as the war was winding down; instead, they became an essential component and part of the apparatus that was deployed at the time of the war. The level at which these companies were regulated or scrutinised by the government was inefficient; as José Gomez Prado (2012: 261), the former chairperson of the UN Working Group on the use of mercenaries explained, “PMSCs, less regulated than the toy industry, commit grave human rights violations with impunity”. However, if we want to avoid so-called sensationalist arguments, as Brooks and Streng (2012) have labelled them, we must focus more on the empirical and technical side of PMCs and flesh out our arguments using Foucault’s analysis for the purposes of the main argument. Therefore, let us begin by looking at some of the more technical elements, starting with the following: What mechanism does the US government rely on to contract out services to PMCs?

Pelton (2006: 41) describes a situation created after the terrorist attacks of September 11th, 2001 and the subsequent War on Terror “that had stretched the U.S. government’s resources beyond what could have been realistically anticipated... creating an opportunity for private industry to supplement the government’s security resources”. This is evident by examining what, according to the Office of the Assistant Secretary of Defense for Sustainment’s website, are the four elements under the private security contractors link that explain how they are being utilised for contingency and operational support. Among those elements are “standards”, which states that “Section 833 of the National Defense Authorization Act of 2012 required the Defense Department to use business and operational standards in the contracting and management of PSCs, with the intent of raising the overall standard of performance of these companies”.

Obviously, this coincided at a time during which the war had begun to wind down, with fewer operations being carried out than in the initial stages. However, this is the first piece in our puzzle as we analyse the effects of security marketisation. If we can determine that a certain type of governmentality can produce a reality whereby certain definitions, for instance, accountability, are redefined through the very type of governance exercised, we can argue that PMCs are not circumventing accountability but simply operating according to the standards of that governmentality. For example, a report released in 2010 by the DoD titled Operational Contract Support: Concept of Operations discusses OCS (Operational Contract Support), an approach that was “adopted as a joint capability area that delivers effects using contracts and contractors to support joint force commanders during contingencies” (OCS: iii).

This joint capability came because of the lack of enough state military personnel to execute operations that were essential parts of the initial plan of the war. This, as stated in Chapter II, resulted from the global reduction in the number of troops following the Cold War, and it is precisely where the neoliberal mechanism plays an important role, by filling the scarcity of

state armed forces and supplementing it with solution providers: in this case, private contractors. Foucauldian scholar Béatrice Hibou (2017: 204) draws on Foucault's 1979 *The Birth of Biopolitics* lectures and introduces the notion of neoliberal bureaucratisation, to signify a new rationality that was "defined by the rise to power of a technical rationality, the increasing ubiquity of market and business norms, the formalisation of government at a distance, and the intensification of a specific kind of operations of abstraction".

In the same vein, private contractors were not only supplementing the US Army in Iraq but they were an essential part of the military apparatus. The expansion of the Iraq War alongside the war in Afghanistan challenged US military capabilities which, in turn, forced the DoD to develop what became known as the 'concept of operations' (CONOPS), which was the basis for OCS. The OCS report (2010: IV) includes a statement in the introduction that displays not only the level of contractors' involvement in the war but also the ways in which 'technical rationality' manifests itself in the US government's approach to security. As the report explains: "We must continually track, monitor, and adjust our investments in this capability area²²". Such statements have a significant impact on the question of PMC accountability, as we will show later in our analysis. However, we need to examine the facts before we can make any definitive conclusions. As such, let us examine in more depth the OCS report to determine what has been the US government's approach to handling PMCs. We will do so by going through a series of incidents that have taken place on the ground, and we will use the OCS report to examine the government's response to these incidents and what they meant for the security domain.

In a series of declassified papers published by the Bureau of Diplomatic Security, part of the US DoS, designated as sensitive but unclassified, details related to hundreds of incidents in

²² In reference to OCS

which PMCs were involved in shootouts on Iraqi soil can be found. Mentioned in Spot Report 042205 – 1, a convoy led by a Blackwater protective security detail (PSD) accompanying “seven principals from the Regime Crimes Liaison Office”, consisted of a five-vehicle motorcade that was travelling from Kirkuk Regional Airbase to Sulaymaniyah, where their base of operations was located. According to the report, a blue sedan car was fast approaching the “follow the vehicle from behind”, and although initially, one member from the PSD team fired into the pavement to try and get the car to stop, it was to no avail. As the shootout continued and, finally, they managed to stop the blue sedan and get away unharmed, the report mentions at the end that “there are unconfirmed reports that an Iraqi was killed” and that there was an investigation by the Regional Security Office.

We have conducted research to see if any results on the investigation have been published or if any action was taken against members of the Blackwater PSD; however, there are no records of this incident outside of the declassified report. In another Spot Report 042705 – 2, members of Blackwater’s Quick Reaction Force (QRF) accompanying a member of the Iraqi Ministry of Interior (MOI) and other Blackwater team members when a “white Opel sedan ignored visual and verbal commands and moved towards the motorcade”. This time, instead of firing into the pavement, members of the QRF shot out the engine block, and all members, including the principal from the MOI, were unharmed and the driver of the Opel “did not appear to be injured”. An almost identical scenario is mentioned in Spot Report 05-0305 – 1. This time, it involves private military company DynCorp; once again, no one from the PMC group was harmed and “the team members said it did not look like the driver was injured”.

A trend appears within these declassified documents whereby members of PMCs react to seemingly dangerous situations by firing their weapons onto civilians. Based on these reports, one has to raise the question: Were these scenarios similar to the one in Fallujah that resulted in four members from Blackwater being killed and mutilated in that the contractors felt they

were in real danger? Another question we have to ask is: How much authority had been delegated to these contractors and did that include firing their weapons during seemingly dangerous yet unconfirmed situations? As we previously mentioned, the Nisour Square incident remains one of the most significant involving PMCs, specifically Blackwater (Academi as it is called today) and it changed the face of this industry. Scahill (2007: 9-10) notes that despite the presence of thousands of contractors who were stationed in Iraq, “private security forces faced no legal consequences for their deadly actions in the first *five*²³ years of the Iraq occupation”. Furthermore, the Nisour Square incident was not a one-off incident, rather it was part of “a four-year pattern, one that had intensified in its lethality the year preceding the killing of the seventeen Iraqis in Baghdad” (Ibid).

According to an article by Steve Fainaru published in the Washington Post (2007¹), a private military contractor was involved in an incident involving the killing of Iraqi officials and civilians. The article goes on to state that the contractor, Jason C. Washbourne, an ex-marine, was in an armoured vehicle with three other members of his convoy in the Green Zone on the evening of 8th July 2006. All four members were “involved in three shooting incidents. In one, Washbourne allegedly fired into the windshield of a taxi for amusement, according to interviews and statements from the three other guards”. Before these incidents took place, Washbourne, who was the team leader, had said “I want to kill somebody today”. Similarly, another incident took place involving another Blackwater employee, known as Andrew J. Mooney, who, according to Broder (2007), was involved in an incident witnessed by Iraqi and American officials. After “drinking heavily”, he proceeded to shoot the then Vice-President Adel Abdul Mahdi’s bodyguard, Raheem Khalif, three times. He “died the next day at an American military hospital”. What needs to be pointed out from this incident, and perhaps one of the reasons it garnered the attention it did, was that the victim was the bodyguard of the Iraqi

²³ Emphasis added

VP at that time. Put differently, what would have been the response if the victim had been an ordinary Iraqi citizen? This question is not without merit as, in that same article, Broder (2007) noted that nine months after the incident had taken place, “no charges have been brought”. Furthermore, the US government tried to keep this a low-profile incident by smuggling the contractor out of Iraq and “paying the slain guard’s family \$20,000 in cash”.

In addition to the obvious accountability concerns that arise from these reports, another equally important concern is the transgression of legal boundaries that for all intents and purposes, were very poorly defined, and how should such incidents be viewed, from a legal perspective. According to another report by Fainaru (2007²), three Iraqi guards were killed by a Blackwater sniper. According to the report, the sniper (standing on the roof of Iraq’s Ministry of Justice) shot at a guard employed by an Iraqi media network who was “standing on a balcony across an open traffic circle”. He then shot another guard who “rushed to his colleague’s side and was fatally shot in the neck. A third guard was found dead more than an hour later on the same balcony”. This was another attack in which the guards offered no provocation and posed no threat to anyone in their vicinity, yet their behaviour was described as an “act of terrorism” according to Iraqi law enforcement. However, and this is particularly important to our discussion, the:

“U.S. government reached a different conclusion. Based on information from the Blackwater guards, who said they were fired upon, the State Department determined that the security team’s actions “fell within approved rules governing the use of force” ... Neither U.S. embassy officials nor Blackwater representatives interviewed witnesses or returned to the network, less than a quarter-mile from Baghdad’s Green Zone, to investigate” (Ibid).

One can draw conclusions from this incident with respect to how acts of legal and sovereign transgression are treated under the auspices of the US presence in Iraq. This problem becomes even more complicated since it is not just the US and coalition forces committing acts of

transgression, but private entities employed by the American government, acting without any effective mechanisms to hold them accountable for their actions.

Service Providers Code of Conduct and Justifications: Breaking down PMC Mission Statements

Our characterisation of private military and security companies as service providers is not just based on the actions that have transpired, and continue to, in Iraq and elsewhere. It is also based on an examination of their mission statements and what they refer to as the Code of Conduct from which we can elaborate on the idea of security as a service under neoliberal governmentalities. When examining the ICoC, there is a recurring theme and a strong emphasis on being a service provider which, we argue, is the manifestation of neoliberal governmentality. It is worth noting that in addition to the ICoC, PMCs have their own code of conduct. Constellis' Code of Business Ethics and Conduct (2018: 5) starts out by stating that they are "committed to conducting business honestly, ethically, and in accordance with applicable laws and regulations of the United States and other countries and jurisdictions in which we operate". Likewise, DynCorp's Code of Ethics and Business Conduct booklet includes an almost identical statement, stating that "It is our commitment to conduct business honestly, ethically... in countries in which we operate" (n.d., 1).

What is the value in being a service provider when there is a need to highlight how your company will conduct business? The answer to this has been articulated by Blackwater/Academi's founder and former CEO Erik Prince, who, according to Scahill (2007: 438), explained during a 2006 conference for military-related matters and attended by arms manufacturers and US Army personnel, that what he envisioned with respect to PMCs was an "idea of private organisations doing things that used to be the sole realm of the U.S. government". Prince's words convey what we have detailed, theoretically throughout this thesis and have attempted to demonstrate empirically by going through a variety of primary

resources. The idea of outsourcing government functions to private entities is by no means a new or rare phenomenon; in fact, as Representative of US Congress Henry Waxman said during the hearing before the Committee on Oversight and Government Reform, “The theory is that corporations can deliver Government services better and at a lower cost than the Government” (2007: 1), further adding that “inside our Government, it has been an article of faith that outsourcing is best” (Ibid: 2). The underlying justification is that lower cost and higher levels of efficiency outweigh government bureaucracy, which is something intrinsic to PMCs, so much so that during that same conference attended by Prince, he said: “When you ship overnight, do you use the postal service or do you use FedEx?... our corporate goal is to do for the national security apparatus what FedEx did to the postal service – never going to replace it, but we want to make it run better, faster, smarter” (Scahill, 2007: 439).

Working from the premise that PMCs are not a substitute for state military/security-enforcing mechanisms and there needs to be a set of rules they must adhere to, what is involved in these rules and how are they enforced? Detailed in Constellis’ Code of Conduct, Section 1.3 ‘Our Guiding Principles’, five generic words are listed: ‘Integrity’, ‘Governance’, ‘Excellence’, ‘Dignity’ and ‘Teamwork’. In particular, the second principle outlines how, as a company (and by extension all companies owned by it), they are complying “legally and ethically”, employing a board of directors to oversee the quality of service provided to their clients. The fact that these companies have a board of directors and a code of conduct is not out of the ordinary, given that they are a business/service provider and, as with most businesses, there are a set of internal controls and mechanisms that allows them to maintain day-to-day operations. However, what the Constellis guiding principles did not acknowledge is that even though they are subject to US laws and regulations and to the jurisdiction of countries they operate in, they are carrying out military and security operations on behalf of governments.

To that end, how do laws and regulations change with respect to the kind of service they are offering? To answer this question in a way that goes beyond the, we would argue, reductive reasoning of the outcomes of neoliberalism, we would start from Foucault's understanding of what it means, and that is "to use the market economy and the typical analyses of the market economy to decipher non-market relationships" (2008: 240). Using Foucault as the theoretical framework for our analysis allows us to say that there have been several incidents in which the dominant IR theories have failed to explain that security marketisation is not merely about the shift from public to private, but it is about a mode of governance. The CPA and the US government came across multiple challenges because of outsourcing military, logistic and intelligence operations to private contractors. As evident from the codes and regulations of PMCs, and articulated by Adedji et al. (2005: XI), "contractor employees have different command-and-control mechanisms and a different legal status". As such, the idea of holding contractors responsible for their actions relies on enforcement of the PMC's own codes of conduct . For example, the DynCorp Code (n.d.: 2) lays out the responsibilities of its employees, which requires them to read and comprehend the document, "utilize available resources to resolve questions or issues of concern; and comply fully with the Code and with Company's policies and procedures".

The essence of DynCorp's Code (and similarly Constellis, the parent company of Academi/Blackwater and Triple Canopy) is that it enforces self-discipline mechanisms. In other words, it relies on the employees' discretion to use the Code in the theatre of operations. According to the Code, following the outline of the employees' responsibilities, the next section is titled Be Accountable for Enforcing the Code (n.d.: 2), and it urges contractors and their managers to follow the procedures outlined within it and to come forward if they see someone who is not complying with it. Additionally, the Code also urges senior personnel deployed in the field with contractors to "avoid placing, or seeming to place, pressure on

subordinates that could cause them to perform in a way contrary to the ethical standards set forth in this Code and in Company policies”; failure to do so could lead to “disciplinary action up to and including termination of employment” (Ibid). Two points are worth noting from this: first, based on the Code, there is a fair amount of responsibility (as well there should be) on the contractor to follow and implement the Code and company regulations. What is problematic with this mechanism is that it is in the domain of security. The primary reason for complying ethically with the law should not be to maintain one’s position at work or one’s salary but to preserve the safety of the environment/individuals they have been assigned to protect. This brings us to the second point and that is, because of the high-pressure and risky environments in which a lot of the contractors are deployed, they could be subjected to pressure from their superiors. In this case, if one or multiple contractors behave unethically or commit violations of IHL or act outside of what they are mandated to do, who is accountable?

Security as an Economic Construct?

The Iraq case has clearly demonstrated that PMCs were only providing support for the US military, but there were also questions concerning the US forces’ ability to “perform their military functions (warfighting missions) without the aid of PMCs” explained Lovewine (2014: 112). As such, contractors were very much needed, and Iraq was the ultimate theatre of operations to witness such scenarios regarding accountability. As Al Shammary²⁴ (2011: 321) noted, PMC activities in Iraq were a clear violation of international and humanitarian laws and as their numbers proliferated in Iraq, as did the types of missions they carried out, they increasingly violated civilians’ rights and their property. The Code, in effect, was a response to the severity of what had taken place in Iraq, which leads us to another equally important point: Which entities could be held responsible for their actions under neoliberal governmentalities? Are there measures in place to hold them responsible? Kristine Huskey

²⁴ Translated and paraphrased from Arabic

(2012: 193) fleshes out two distinct incidents in recent history involving PMCs that have, as she contends, brought them under the spotlight for crimes against humanity and raised concerns about policies and regulations for the contractors responsible while, at the same time, states and organisations were also looking at what sort of responsibility they had for any harm inflicted by PMCs.

The problem with these two lines of thought is that they are only concerned with “post-conduct accountability”; they do not examine the idea of “pre-conduct accountability for PMSCs and their personnel” (Ibid). While it may seem obvious that a set of rules and mechanisms to hold PMCs accountable for their actions before, during and after they have completed their missions is the most sensible idea, we would argue that this type of analysis does not look at the underlying challenge of holding these companies accountable. Moreover, we would argue that before proposing a new approach for PMC accountability, we need first to examine its definition as it stands within the context of the neoliberal mode of governance to provide a more holistic view.

This becomes the first step in understanding Foucault’s vision of neoliberalism transforming societies to become ‘entrepreneurs of the self’. Second, Miller and Rose (Ibid) argue, based on the fact that Latour’s concept of “action at a distance” has been utilised as a tool for governments to “rely, in crucial respects, upon ‘expertise’: the social authority ascribed to particular agents and forms of judgement on the basis of their claims to possess specialised truths and rare powers”. We recall Leander’s (2005: 803) notion of “epistemic power”, which she attributed to PMCs who “have considerable power to shape the security agenda” as well as “security understandings of key actors, hence their interests and preferences”, all of which are shaped by one crucial point: because PMCs have changed the nature in the way we understand security (in militarised terms), it “in turn... empowers PMCs as particularly legitimate security experts”.

To restate what we just said in terms of our case study, the US government had a vision of aligning its economic vision (in Iraq and at home) with its political objectives; as such, given the views of the administration at that time, the US outsourced a major part of its military operation to PMCs. Thus, the idea of managing Iraq's security "at a distance" became manageable because of private contractors' expertise in the field which, in turn, granted them legitimacy (and, by extension, forcefully changed the norms). As the next sections will demonstrate, the economisation of certain aspects of government/domains of government altered the way accountability is understood, and from there, the way the subject is dealt with by the same mechanisms that mirror those of the free market, thereby subjecting it to a set of constraints that overturn its democratic nature. We would emphasise that one of the main reasons for the proliferation of private contractors in Iraq, and the increasing number of activities that were outsourced to private companies, was to promote competition. Outlined in Chapter I, we have described how Foucault's analysis of American neoliberalism valorises competition and is one of its main hallmarks. As such, the US government opened the market to allow competition between private contractors and enlisted their help with various aspects of the war, including training, logistics, translation, etc. What is the purpose of competition in the security apparatus and how do PMCs benefit from it? Osborne and Gaebler (1992: 19-20) explained that:

"Most entrepreneurial governments promote *competition* between service providers. They *empower* citizens by pushing control out of bureaucracy, into the community. They measure the performance of their agencies, focusing not on inputs but outcomes. They are driven by their goals – their *missions* – not by their rules and regulations. They redefine their clients as *customers*... They *decentralize* authority, embracing participatory management. They prefer *market* mechanisms to bureaucratic ones."

We argue that by transforming security from a political/social concept into an economic one (the economisation of security), we can then measure and determine how well these companies are doing, how well they conduct their business in the theatre of operations and, as in any business, we can see how competition is an essential component of their existence. To put it

differently, by economisation, we are referring to the reduction of security aspects to mere figures and numbers.

This is a critical idea for our thesis because it helps shed light on what we intend to show as the central topic: namely, the panoply of a Foucauldian analysis of neoliberalism, shifting government- dynamics and private military companies. Through the “extension of economic analysis...precisely on a point where it had remained blocked” in Foucault’s case (2008: 209), here, the security apparatus begins to take on similar properties as those of the market. This offers a new understanding of what security essentially means. If we recall, in Chapter II the definition of security, as cited in most traditional and CSS and IR theories, has meant the ‘absence of threats’ and, although that might seem too wide a definition, nevertheless, in this scenario, the state was responsible for ensuring this fact was upheld through its security apparatus (police and the military). When security is outsourced to private contractors, it follows the same logic of the market, as Foucault (2008: 206) suggested, and so with the manifestation of the “enterprise society” comes “minimum security... the nullification of certain risks on the basis of low level [*sic*] threshold.” Although, in this context, Foucault was speaking about security of employment in neoliberal societies, the same line of thought can be applied to our case study.

Do the Measures Justify the Violations? The Consequences of the Metrification of Accountability

It is now evident that the controversial role of private contractors in Iraq has been, in addition to the obscurity in their roles during the invasion and their chain of command (or lack thereof), a blatant violation of IHL. This has been articulated by Isenberg (2009: 29), who explained that in Iraq, private contractors worked for the American, Iraqi and British governments, as well as for multiple other firms. What complicates the matter further is that some PMCs (or PSCs) worked as “sub-contractors to a prime contractor; others work two, three, four, or even more

levels down the contracting chain, which makes oversight that much more difficult” (Ibid). As we pointed out in Chapter I, this can be attributed to the emergence of a neoliberal technology of government or, as Gane (2014: 4) put it, “the emergence of new governmental configurations that run in a loop between the market and the state”. Before moving further with the analysis, we must ask the question: Why did the US decide to outsource a significant number of its operations to PMCs and use them to protect their troops and bases in Iraq?

Singer (2008: 243) suggests that “insufficient U.S. forces were sent for the mission” and the “Iraq operation focused only on the invasion itself, and there were no realistic plans or structures in place for what would come after it”. We would agree with Singer’s explanation that Operation Iraqi Freedom was not properly thought out, for a multitude of reasons. Nevertheless, we would argue this explanation does not flesh out the full breadth of why the US government resorted to private contractors to supplement its troops in Iraq, and what effects have marketisation practices had on security (as we shall demonstrate later in the chapter). According to a first-hand account of former PMC employee/contractor John Geddes, who had been deployed in Iraq as a Managing Director at Ronin Concepts Elite, after six weeks, their company, an English company, had lost its contract to Armorgroup, an American competitor. According to Geddes, “that’s the way things are in the PMC business: shifting contracts and new bosses every few weeks or sometimes every few days” (2006: 36). The seemingly entrepreneurial nature of private armies, we argue, has not been articulated enough in the literature examined thus far. The neoliberal nature of PMCs stems from what Foucauldian scholar Johanna Oksala (2013: 53) described as “structural and systemic changes in the conception of the political and the practices of governing.” In other words, the shift of state-controlled entities to the market is, in part, a shift in political and economic understandings.

This is reflected in Geddes’ words that to understand how PMCs, or the “mercenary swarm”, functioned in Iraq, one “has got to leave the battlefield for the boardroom because it’s

in the plush London and Washington offices of the security companies that the life-or-death of the PMC business is done”. Geddes’ account of how PMCs operated in Iraq is not only unique in demonstrating the reality of the subject, but it also provides us with a much-needed tool to connect our theoretical analysis with our case study of Iraq. As legality and accountability are at the forefront of the chapter, we need to look at not just what private contractors did on a daily basis while deployed in Iraq but also get some perspective from citizens who have been subjected to living through this experience. These experiences, as told through the works of Scahill, Singer, Lovewine, portray a sinister side of PMCs. Perhaps that was not the intention of their analyses but the fact is, contractors’ work in Iraq has resulted in the death and maiming of civilians and gross violations of IHL.

For example, a memorandum²⁵ to the US House of Representatives presented to the Committee on Oversight and Government Reform that preceded the hearing mentioned earlier explains that new evidence had come to light involving “shooting incidents”. In particular, the memo shows that Blackwater/Academi “has been involved in at least 195 “escalation of force” incidents in Iraq since 2005” (2007: 1). The memo further adds that as per their contract, Blackwater was contracted to provide security details for the State Department, which meant they could only fire their weapons for self-defence. However, in “over 80% of the shooting incidents... its forces fired the first shots” (Ibid: 2). If secondary sources engage in “sensationalist” accounts about PMCs, as Brooks and Steng (2012) have suggested, the memo and other primary sources are merely stating the facts. These include Blackwater/Academi firing at moving cars and not checking afterwards if there were any injuries/deaths, in addition to “16 Iraqi casualties and 162 incidents with property damage, primarily to vehicles owned by Iraqis” (Ibid). This demonstrates two things. First, the idea of the private contractor carries a

²⁵ The memo discusses the incidents detailed in the declassified documents by the Bureau of Diplomatic Security

negative image arising from the lack of any framework that regulates their actions, as evidenced in the words of the Iraqi citizens. Second, it raises questions about private contractors and how they operate on American and British soil. A transcript of Ma Wara'a Alkhabar, a news programme on Al Jazeera (2006)²⁶, begins with an Iraqi citizen joining the programme via telephone and saying:

“This thing called private American security that we see on the street does not benefit Iraqis nor do the employees even speak to them. They beat them up, humiliate them, ram into cars on the street or fire at them. I just want to ask one question: If this happened in America or Britain, would the American president or citizens accept it?”

What sort of regulations were in place? Did Blackwater and other PMCs operate with the same kind of impunity as they did in Iraq? While these questions also relate to the Iraq case, it is essential to contextualise it within a Foucauldian analytical framework. This means looking at what Foucault meant by (and referred to in detail in Chapter I) security and how that relates to the PMCs in Iraq. As Wichum (2013: 169) suggests, Foucault differentiates between “spaces of sovereignty and spaces of security”, where spaces of security are “temporal and uncertain”. Therefore, we can make the argument that PMCs operate where there is uncertainty and instability, which is what Iraq represented at the time of the invasion: a space or territory that was subjected to shock and awe policies designed to transform the political and economic systems into unrestricted market capitalism (Klein, 2007).

In doing so, PMCs were treated as private entities whose main business involved providing security details to US military base camps, guarding multinational companies involved in the reconstruction process, UN personnel, etc., and with that came a new set of techniques used to assess how these contractors performed in doing their assigned tasks. As we get into details about the kind of activities PMCs were involved in, it is important to highlight a keyword used here, and that is “performed”. We have noted how the Annual Performance Plan and

²⁶ Translated from Arabic

Performance Report (APP and APR) (2019) outlined the DoD's strategy to find the best National Defense Strategy (NDS) through performance-based assessment. The report is written as a result of the Government Performance and Results Act (GPRA) and the 2010 Modernization Act (GPRAMA). Broadly speaking, the two acts were introduced (in 1993 and 2010) as part of the shift from government to governance. Introducing them allowed the government to 'keep track of accountability' and to determine, based on results obtained from these acts and others like them, how to hold agencies/contractors accountable.

As we mentioned previously, our original contribution to knowledge lies in threading Foucauldian analysis into our examination of the effects of PMCs on Iraq's security by focusing on aspects of accountability under neoliberal governance. We now need to take a closer look at the idea of performance and performance assessment as it forms a major part of the panoply of our analysis. The difficulty of holding private contractors accountable poses a significant challenge, particularly when we examine the mechanisms required. Krahmman (2017) suggests that part of the problem stems from the current mode of oversight, whereby performance measurement and assessment are the determining factors of how contractors are held to account. In other words, the current mode of governance is a form of accountability through data, and due diligence is confined to box-checking.

As Krahmman (2017: 545) notes, there has been a shift in the literature away from the concept of "measurement" and towards "the implications of performance assessments for how governance is practised". Another keyword we need to highlight here is governance; such a word has broad implications in our analysis, as we shall demonstrate later. However, here we need to point out that in connection with the rise of neoliberalism, there is a new mode of governmentality that is characterised by the presence of governance rather than government. For this reason, it is vital that we look at how we might analyse PMC performance in Iraq under this new mode of governance, and how private entities are penalised for wrongdoings.

Krahmann (2017: 546) suggests that a major part of PMC accountability has been substantially altered because of the conceptualisation of security as a “performative act”. This means that if maintaining peace and security is equivalent to “low probability of frequency of damage”, then the problem, according to Krahmann, is that such a trend must last for an extended duration to be characterised as having low frequency (Ibid). The issue with this conceptualisation of the Iraq case is that it proposes that the reason PMCs proliferated in that time and place was due to an increase in the number of attacks on US military bases, as well as private contractors.

Foucauldian discourse analysis of accountability to the employer under a neoliberal governmentality

This section applies our methodology of FDA to critically examining how accountability to the employer is renegotiated. From the perspective of the employer, have PMCs acted responsibly in Iraq? Should they be held to account for trampling over the rights of Iraqi citizens and for acting outside of the scope of their work? Based on the numerous reports published, PMCs were held accountable by pointing out their wastefulness in the allocation of resources and violating acts of open competition, which is why these reports were published in the first place. They were meant to suggest ways to counter these problems, optimise business operations and hold these contractors accountable.

The Special Inspector General for Iraq Reconstruction Quarterly (2008) report devotes an entire section to the private security forces in Iraq. The report cites “Congressional concerns about the selection, training, equipping and conduct of PSC personnel in Iraq”. These concerns were cited in the 2008 National Defense Authorization Act.

Analysing the text

Accordingly, Section 862 of Act states that certain regulations have to be met for private security providers to operate in Iraq. These regulations include “a process of registering, processing, accounting, and for keeping appropriate records of personnel performing private

security function in an area of combat operations”. Further to this stipulation, the Act also refers to a ‘process for authorising and accounting for weapons’, “registration and identification of armoured vehicles, helicopters, and other military vehicles” that are being operated by “contractors performing private security functions”. Several keywords emerge from this, including processing, registering, accounting, records and performing. These words explicitly refer to procedures that can be measured and, in doing so, they assign a new meaning to how PMCs are held to account.

An interesting and almost contradictory point mentioned in Section 862 is that there was also a need for “a process under which contractors are required to report all incidents, and persons other than contractors are permitted to report incidents”.

The language used to enhance oversight and accountability are consistent with a neoliberal mode of governance. Bourke and Lindstone (2015: 839) refer to “archaeological isomorphism and sameness”, which, in this case, points to a set of repeated and similar words that crop up over and over throughout the text. Simultaneously, as we have observed, the call for measures which we have described as quantifiable is almost contradicted by the call for a process to investigate “incidents of alleged misconduct”. That contradiction does not invalidate the text, nor does it constitute “an irregularity in the use of words” or an “incompatible proposition”. Instead, Foucault (1972: 149) tells us, “the coherences found may differ considerably” and that we may find a “logical non-contradiction” within them. Calls for independent assessments or that “regulations for including ‘mechanisms to ensure the availability of the orders, directives, and instructions’” do not contradict the government’s reliance on that which can be measured”.

What is consistent in the primary documents we analysed here and will do over the next two chapters is how the policy on accountability needs to be verifiable. The idea is to implement ways in which PMCs can be held responsible. However, this responsibility is seen

as a set of orders and procedures which need to be followed. The (2008: 8) GAO report lists the Key Organizations with Roles in Oversight and Coordination of Private Security Contractors in Iraq. These organisations include the Iraqi government, the DoS and the DoD. With tasks divided up between these organisations, the oversight process is coordinated and streamlined so that it can assess if PMCs are acting with responsibility. That said, this has not been effective enough, according to the report, despite an increase in the “number of personnel in Iraq devoted to providing contract oversight and management of private security contracts”. The idea of increasing the number of people who can provide oversight on PMCs is how the government constructs a framework for PMCs to operate within. As Bourke and Lindstone (2015: 849) mentioned, by defining “discourses in their specificity”, an emerging “set of rules that they put into operation could result in a particular outcome”. This outcome, as is evident from the selected texts analysed here, is the renegotiation of democratic accountability through neoliberal procedures.

PMCs were not only acting as additional security forces responsible for protecting military bases and members of private organisations and important figures. Instead, they acquired a level of agency that is almost indistinguishable from that of the occupying forces. With so many incidents that cannot all be included in this thesis, it is important to note that these incidents are turned into figures and numbers that are supposed to convey levels of (in)security which, in turn, is used as another method of performance assessment of PMCs. In other words, it legitimises contractors and the type of work they do, and it also legitimises their behaviour when their work is reduced to numbers.

Krahmann (2017: 544) cites Mark Schuman’s definition of legitimacy as “a generalized perception or assumption that an entity or the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions”.

The notions of legitimacy and norms certainly have importance with respect to the accountability of PMCs. The shift to outsourcing military operations is marked by a shift in norms, as Percy (2007) indicated. At the same time, Percy indicates that there are also “conflicting norms” (Ibid: 169), meaning that even though states have chosen to outsource their core functions to the private sector, there are still “strong norms” against the concept of mercenaries (the use of language here is to denote the general perception of PMCs). We must then turn to the point of legitimacy. Based on the definition we have used, we would argue that the legitimisation of norms accepting the use of PMCs in Iraq and elsewhere results from the government’s legitimisation of these entities, not as an auxiliary to the military but as an extension of it. Both the legitimacy and norms of privatising security in Iraq, while easily attributed to the rise of neoliberal governance, miss the crux of the matter, which can be augmented by looking at Foucault’s analysis of neoliberalism.

To summarise, the purpose of this chapter is to map out how, under a neoliberal governmentality, the presence of private contractors in Iraq became a hallmark in recent history that has shown the change in our understanding of accountability in relation to the employer. By analysing the issue through the framework of Foucault as it relates to neoliberalism and security, the definition of accountability becomes one of measuring the degree to which PMCs acted responsibly, using performance-based assessment approaches which have become entrenched in government, which has also side-lined its active role and embraced the idea of governance.

As such, we would restate our argument that the gap in the literature on PMCs on the accountability of PMCs in Iraq and beyond is that by looking at the effects of outsourcing security to these private entities instead of looking at the logic that drives the state to do so, it misses the fact that a Foucauldian analysis helps point out. And that is, these companies were

and are still held accountable according to a configuration of government that valorises the principles of the free market and attempts to apply, decipher, penalise and reward through it.

Accountability for the Actions

Can PMCs be held accountable for their actions? The straightforward answer is ‘yes’, and they should be held responsible for their infractions. That being said, what does accountability mean in this instance and what are the criteria for assigning responsibility? Although some scholars and practitioners have proposed frameworks to assess whether the current international legal system provides adequate means of holding PMCs accountable for their actions through more transparency (Stanger, 2012), others have challenged the traditional narratives on PMCs to formulate policies that can push for a more concrete definition of legal and ethical accountability (Brooks and Streng, 2012). This chapter will be devoted to explaining how PMCs actions are judged and what the method of assessing responsibility and answerability to them is. This will be achieved by examining primary material and existing literature through the use of FDA.

How do we hold corporations accountable for their actions and how do we determine if they have done their job as they should have? What factors or determinants do we use to hold entities accountable for their actions? How can an FDA of neoliberalism help us understand PMC operations in Iraq and the marketisation of security? We need to look at these are critical as part of the main analysis. Let us consider the US government, PMCs and Iraq as our primary objects of analysis.

The US DoD has, “throughout its history... relied on contractors”, according to a Congressional Research Service publication (2017: 1). The notion that PMCs proliferated during the Iraq War is, therefore, not entirely accurate. However, Iraq was among the most prominent examples in modern warfare where the use of contractors became widespread. Lovewine (2014: 77) observes the use of PMCs by the US in Iraq did not only help them reach “strategic and military objectives” but also “foreign policy goals” by using their services for

“logistic and intelligence operations”. This gave these companies the “opportunity... to affect capacity-building operations or the US military’s strategic approach to counterinsurgency”. While some may argue that the proliferation of PMCs in Iraq was necessary as the scope of the war widened and the types of missions carried out could not be handled by the US military and the coalition forces, the more pertinent question is: What resulted from the increased reliance on PMCs and how did that affect the security environment in Iraq? Singer (2007: III) argues that “the use of private military contractors appears to have harmed, rather than helped the counterinsurgency efforts of the US mission in Iraq”. However, Singer’s analysis rests on the idea that the increased reliance on PMCs creates a type of addiction or “dependency”, which means that the US “can’t win with them but can’t go to war without them.”

PMCs are therefore categorically instrumental in military operations because even though, as Singer pointed out, PMCs cannot help “win” a war, the marketisation of security and the logic of outsourcing as part of neoliberal governance has allowed them to be a critical feature in recent military operations, and increased their state’s reliance on them. One of the consequences of this dependency is that it takes for granted that even though the Iraq War was not sanctioned by the international community and the UN, as the war progressed, it became increasingly difficult to identify who was to be held responsible for the casualties. According to Lovewine (2014: 17), at the start of the war, American troops were responsible for “safety and security”, and part of the US strategy was to carry out combat operations to accomplish certain targets as well as non-combat operations and “capacity-building initiatives designed to shape a functioning government”, all of which required the presence of PMCs.

On one level, given the range of missions PMCs were allowed to carry out and the kind of responsibilities they were tasked with during the war, they were, in effect, carrying out the state’s duties. On another level, there is a problem with private entities, rather than single individuals, when they carry out said missions because it simply adds to the opacity of the

already opaque situation regarding PMC responsibility. As White (2012: 236) has observed, “Business corporations such as PMSCs, states, and international organisations are all, in a conceptual sense, corporate actors relying on individuals to carry out their will... Certainly, there is difficulty in attaching criminal responsibilities to these entities”.

According to Singer (2008), insufficient planning forced the US to rely on the services of the private sector. The *raison d’être* was to maximise efficiency and eliminate waste and extra costs; however, that has not always been the case. The Commission on Wartime Contracting in Iraq and Afghanistan titled *Transforming Wartime Contracting: Controlling costs, reducing risks* reports that private contractors make up “more than half of the US presence in the contingency operations in Iraq and Afghanistan” (2011: II). The report is approximately 250 pages and it details the waste and fraud related to the use of private contractors (security, military and other services) and proposes ways to reform contracting methods for contingency operations to streamline them and provide proper accountability and oversight. One of the propositions in the report was concerned with competition and management techniques.

Removing competition from neoliberalism: PMCs as a market force of their own

The essence of neoliberal governmentality, the idea behind it and how it operates, has been discussed: competition. The GAO report brings to light multiple questions concerning how the supposedly neoliberal US government operated, which must be raised to understand the reality of what happened on the ground and the theoretical assumptions behind it (GAO, 2005b). Beginning with the issue of competition, the concept is what defines neoliberalism and is the main point of distinction between it and other regimes and governmentalities. Yet, using this to analyse interagency contracting, we seem to have a disconnect because, on the one hand, government agencies are operating and engaging with the market and utilising it to compensate for certain deficits in the security domain, while on the other hand, the so-called players, who in this case are the contractors, have taken advantage of this deficit and the ways in which

government agencies are acting autonomously to rig the system in their favour. This even stretches to carry out administrative tasks that, under no circumstances, an entity other than the government can perform.

As the US increased the number of contractors operating in Iraq, there were more complications. What is even more interesting is that the DoD spending continued to grow even as the combat operations were supposedly over. A CRS Report for Congress (2007: 2) by Valerie Grasso explains that there are regulations that outline which government entities are responsible for issuing federal contracts in accordance with the United States Code and the Federal Acquisition Regulation . These work in accordance with the Competition in Contracting Act of 1984, which calls for “full and open competition through the use of competitive procedures in accordance with the requirements of this title of the Federal Acquisition Regulation”. At the same time, for the use of contractors, the Defense Federal Acquisition Regulation Supplement mentions certain circumstances under which the DoD may use other means for issuing federal contracts. Some of these conditions have been used in justifying the DoD not using the Competition in Contracting Act, specifically while deploying these contractors in Iraq. For example, the report mentions that one of the conditions, referred to as Contingency Contracting, mentions that the “DoD is developing initiatives to strengthen the DoD contracting process and system in Iraq” (Ibid, 2007: 3).

As PMCs began taking over some aspects of the contracting process, what happened, theoretically, was the steady loss of the state monopoly on force. The concept of the state’s legitimate monopoly on violence in the general sense implies that only a sovereign entity has the right to exert force that is solely reserved to it. In this case, private contractors began taking on that role as legitimate actors who had the right to a monopoly on violence, with two main consequences. First, the retrenchment of the state indicates, even to a small degree, that its role as the main provider of security is diminishing. Second, the idea that PMCs can essentially

control the market is indicative of their power to intervene in the free market and to act as they see fit. Leander (2005a: 605) explains that “*supply* in the market for force tends to self-perpetuate, as PMCs turn out a new caste of security experts striving to fashion security understandings to defend and conquer market shares”, and that what raises more concerns is that “*demand* does not penalize firms that service ‘illegitimate’ clients in general”.

Although competition and vying for government contracts was supposed to be an essential mechanism for PMCs to operate in Iraq, this idea was not realised according to expectations. According to the GAO report (2005: 3), the DoD was faced with many problems, particularly with “interagency contracting”, a process between different government agencies that “places an order under an existing contract for another agency – as a way to streamline the procurement process”. According to the report, while this mechanism has its benefits, its mismanagement has led to “not complying with additional DoD *competition*²⁷”. Furthermore, the report details that there was a deliberate approach by managers liaising between the DoD and MoI to have “an office culture of providing inexperienced staff with the opportunity to learn contracting by taking on significant responsibilities”. This was in addition to the fact that even though senior managers were responsible for supervising the junior and inexperienced staff, “the contracting officers’ reviews were not always thorough and appeared to be a ‘rubber stamp’” (Ibid: 19). These two points mentioned in the GAO report are very important to our analysis because they show that even though the competition guidelines were not strictly followed, the idea existed to create an environment that was similar to a corporate setting. This is precisely what using Foucault to analyse the effects of PMCs and security privatisation can help explain by showing what is the nature of neoliberalism and its impact on accountability and how the concept differs under this form of governmentality.

²⁷ Emphasis added

As discussed earlier, the procurement system for government agencies relied on open competition among contractors (particularly those involved in military operations) vying for the award of contracts. However, the GAO report (2005) found that many contractors were in violation of following the procedures pertaining to the competition laws, with the Commission on Wartime report (2011: 150) identifying the same problem. This failure in compliance was because of the immense workload the managers of acquisition faced; they could not maintain the records to evaluate contractors' performances "during peacetime, with the consequences that... contractors performing in Iraq and Afghanistan may escape agency oversight and law enforcement" (Ibid). What is interesting is that the Commission on Wartime report is not the first of its kind to identify serious problems with contracting. In 2007, a report titled Urgent Reform Required: Army Expeditionary Contracting, otherwise known as the Gansler Report (named after Jacques S. Gansler, former Under Secretary of Defense for Acquisition, Technology and Logistics), was published. The report concluded that poor management, outdated contracting approaches, rules and regulations and other factors "have significantly contributed to the waste, fraud and abuse in-theatre by Army personnel" (2007: 1).

PMCs: Actions and Infractions

Putting aside for the moment the wastefulness and mismanagement of resources, let us examine PMC actions and infractions on the battlefield. Pelton (2006: 70-1) described how, following his election in Afghanistan and becoming known as a Western ally, Hamad Karzai became a primary target for the Taliban and, despite several attempts, it was impossible to train Afghan guards to safeguard him. Karzai pleaded with the American government to provide him with adequate protection and this resulted in an incident involving the US SEAL team that was eventually assigned to him. The incident involved the contractors shooting an assassin and killing two other innocent Afghans. This caused an international incident and made it critical for them to devise a new way to protect him (Ibid: 72). An alternative plan was put into motion, spearheaded by ex-Delta force member Craige Maxim, who suggested to the state department

that they hire a number of independent contractors to be handpicked by him as a more economic and reliable solution to using SEAL Team 6, which the government agreed was cost ineffective (Ibid). This solution was approved and Maxim and the new recruits were hired as sub-contractors for PMC DynCorp (Ibid: 73). This incident poses major challenges in terms of accountability and contractors' status during war and/or peace-keeping periods. By outsourcing the protection detail to sub-contractors of DynCorp to avoid scrutiny from incidents involving the death of civilians, neither the US government nor the company has been held responsible simply because there is no clear legislation that clearly states PMC legal status.

Ensuring that said contractors (and sub-contractors) are complying with the law requires a new approach that can manage and assess how well they are adhering to regulations and laws. From a legal perspective, as Leander (2010: 467) puts it, PMCs are provided with a kind of impunity that arises from the way discourse on security is being reshaped, how techniques with embedded market practices are being governed and how the "exercise of the state's monopoly on violence" is being regulated. Such an approach ultimately results in the "coexistence of PMCs' relative impunity with intense contestation and legal innovation". Leander's breakdown of how PMCs enjoy relative impunity from their actions contributes significantly to our analysis; however, we would add that how market-like practices are used is not simply the deregulatory aspect of neoliberalism, as it may be more commonly referred to.

Foucauldian Discourse analysis: PMC Actions

This is where our methodological framework can shed some light. Looking at the US military handbook on Developing A Performance Work Statement (PWS) in a Deployed Environment (2009), there is a strong emphasis on measuring the performance of a contractor. The handbook states that a PWS "is a detailed set of verifiable performance or quality standards for everything the contractor is required to perform or produce". The emphasis here is on the verifiable points by which the US government sees fit to assess accountability. If we take the

incidents mentioned so far, some pose a challenge when trying to verify exactly what went awry. The ‘already-said’ part of the discourse here is concerned with what can be measured and visible. Conversely, the ‘never-said’ part is that which may show accountability for actions that bear measuring and can be put into numbers. Assessing accountability for actions in the field can be difficult as it is hard to identify exactly what happened. However, “the government pays for results, not activity”, as stated in the PWS, and implying that measurable results are the standard for accountability.

Contractors as unrestrained corporate soldiers?

There is an allure to soliciting the services of the private military industry. As Sheehy et al. (2009: 14) put it, in the midst of the Rwandan genocide, and with no action taken by members of the international community, PMCs became a very appealing option. Citing the words of former UN Secretary Kofi Annan, the possibility of contracting out to PMCs exists because they “offer many significant military advantages. A private company can start up and deploy faster than multinational, and perhaps national forces²⁸”. We would argue that in the case of the Iraq War, from the perspective of the US government, supported by Annan’s statement, the use of PMCs was justified, despite the horrors that resulted from some of their actions.

According to the CBO report released in 2008, contractors (a term that covers all kinds of private personnel and the activities they were involved in) “play a substantial role in supporting the United States’ current military operations in Iraq, accounting for a significant portion of the manpower and spending of those activities”. Furthermore, Lovewine (2014: 22) recounts how PMCs were steadily integrated into the war scene, citing the DoD’s decision to use PMC workers instead of American troops to secure the “fixed-perimeter defense”. This image began to change as American troops began to withdraw from securing important military sites as

²⁸ Annan would, however, say that at that point “the world may not be ready to privatize peace” (Sheehy et al., 2009: 14)

forward operational bases and replaced personnel with third-country nationals. The implications of this gradual shift will be discussed later in the chapter, but to understand these effects the analysis must first explore, in detail, how security became a marketised commodity and what that means in the bigger picture of the workings of a neoliberal governmentality.

Put differently, from a quantitative perspective, the number of PMC contractors had reached a staggering 190,000 (at least), which far exceeded that of US troops; in other words, the ratio of contractors to the military was 2.5 more than in previous wars the US had been involved in, according to Tonkin (2013: 1). The type of work carried out was essential to the entire operation; while some missions were small and minor, others were of a large scale. An example of the former was, as Isenberg (2009: 30) has shown, providing security details to important figures (members of US Congress, diplomats, etc.), but only after the contractors had passed a rigorous background check, and the personnel had undergone training and they held certain qualifications. Despite this seemingly arduous process that contractors had to go through to be hired by a private military and security company, it was considered less rigorous than it should be. To illustrate the fact that there were still questions about the type of people working at PMCs, Isenberg (2009: 105) recalls the director of ArmorGroup Christopher Beese's statement, that it was:

“extraordinary that the doorman for a nightclub, catering for a particular clientele, in a particular part of town may have to be vetted and licensed when the same man can be equipped with a rifle and armoured vehicle and be engaged to protect diamond concessions for a foreign regime in clear breach of public interest and perhaps even in contravention of human rights, but needs no such regulation.”

At this point, we can make the argument that the US government has developed and continues to develop how it can ‘measure’ and assess the performance of its offices. To illustrate this point, according to the APP and APR for the years 2018-2022 (2019: 3), which sets forth the NDS, one of the purposes of the report is to reform the DoD's “business practice for greater performance and affordability”. Furthermore, Acting Chief Management Officer

(CMO) for the DoD, Lisa Hershman, has explained that to achieve a successful NDS, the department must “deliver optimized operations and shared services to assure the successful implementation”.

At the basic level, the US DoD has transformed its defence strategy into a business model which relies on creating synergistic alliances with other entities they engage with to deliver the best results possible. Those results are the benchmark for how well they have performed and can be used to determine how responsible the department was and how well it managed its resources. The CMO has further explained that even though the DoD has access to a lot of data, it still lacks sufficient information, which is why they must prioritise “data management and analytics” as it will “better inform decisions, improve the allocation of resources, and *ensure accountability through outcome-based performance measures*²⁹”(Ibid).

To that end, Krahmann (2017: 545) pinpoints three definitions of security that have been used to justify the use of PMCs and, consequently, justify non-democratic accountability. The first definition refers to “low probability or frequency of damage”, the second refers to states of mind such as “freedom from anxiety”, and the third defines security in terms of “activities and capabilities, such as prevention, deterrence, protection, resilience, pre-emption and avoidance”. Krahmann denotes these definitions of security as performative acts, and problematises each of them in the following ways. The first definition is challenged because of the statistical logic involved; assessing whether or not there is low probability of damage or risk of damage “can only be established over a long period of time, which... may go beyond individual contracts” (Ibid) and, more importantly, it is not possible to determine such probabilities given that PMCs are susceptible to black swans (low probability, but high impact events, as defined in Nassim Taleb’s seminal book *The Black Swan*). The second definition,

²⁹ Emphasis added

Krahmann (Ibid: 546) believes may be achieved partially because it is possible to assess, quantify and measure perceptions of safety, but it is still problematic because “perceptions can vary independently of, or even seemingly in contradiction to, the provision of security services”. Finally, the third definition meets the requirements of measurable activities, but its main problem is that it is based on the notion that capabilities and activities can be measured in relation to certain security outcomes. In other words, the “conceptualisations and definitions of performance targets directly equate to activities and capabilities with security as an outcome”.

This means that accountability is not understood as being “democratic accountability”, but rather that data analysis serves as a guiding tool to help determine accountability. Krahmann (2017: 544) explains that through the rise of neoliberalism, NPM is used as one strategy to legitimise PMCs, which can then be used to “help solve the distrust over whether government and ‘the organisations and individuals that they fund and manage’... are doing what they are mandated to do”. Furthermore, Krahmann (Ibid) shows that the US government has been pushing forward the idea of performance-based measures across multiple administrations, most recently through the Government Performance and Modernization Act 2010. According to the official GPRA Modernization Act document, all governmental agencies (by whom private contractors are employed) are required annually to provide a description of their “goals and objectives, including outcome-oriented goals” and “other resources required to goals and objectives” (STAT 3866-7). This according to Krahmann (Ibid), is the means whereby the US government validates “the contracting out of a growing range of security functions within international military interventions”.

Data and actions: understanding the connection

By reducing them to numbers and figures, casualties and fatalities no longer reflect the gruesome nature of war, and the focus is shifted to how many were killed against how many

were injured and saved from an attack, and the smaller the number of the former, the more successful and responsible the privately contracted company appears to be. The success of PMCs can be seen as a double-edged sword. On the one hand, it is more logical to award more contracts to PMCs that have shown good numbers and whose performance measure is ranked higher than others or, in other words, they seem to be legitimate non-state actors (Krahmann, 2017: 544). Conversely, if certain PMCs are awarded more contracts, it is more likely that this will lend them security expert status. Leander (2005b:803) theorises that the “actions of PMCs have affected the field of security expertise, empowering a more military understanding of security which, in turn, empowers PMCs as particularly legitimate security experts”.

In terms of how this impacts accountability, one of the many reasons why the US resorted to PMCs is because they have sufficient expertise (at least theoretically) to assist in combat, training and logistic operations, as mentioned previously. However, given their ambiguous status under IHL, the fact that performance, performativity and metrics are the criteria used to determine how well a PMC did in its mission, the idea of accountability is given a new interpretation.

On a theoretical level, we can argue that neoliberal governance is producing new kinds of subjectivity that alter our perception of the very foundations that make up our world, such as education, security, and democracy. This altered perception results in the reformulation of our understanding of the issues in terms of how they are being handled by the state and the private sector. Le Galès (2016: 3) cites “Welcome to the ranking world”, a phrase popularised by Christopher Hood to denote how almost everything is being reduced to numbers and rankings, and the most critical aspect has been to assign numerical values or even key performance indicators (KPIs) to everything to measure its performance. This is not to say that numbers are irrelevant or that we should not use any measurements to assess governmental or private entities; however, the metrification of society and government, a process that mirrors the

corporate world, seems problematic in relation to democratic values and our understanding of accountability.

Christensen et al. (2007: 17) offer an account of the evolution of Western political systems over the years by demonstrating the introduction of a new technique known as new public management” (NPM) which seeks to “improve the effectiveness and efficiency of the public sector, enhance the responsiveness of public agencies to their clients and customers and improve managerial *accountability*³⁰”. Similarly, Pollitt and Bouckaert (2011: 2) have described the idea of NPM as the “deliberate changes to the structure and processes of public sector organisations with the objective of getting them (in some sense) to run better”. To that effect, it becomes more obvious how this trend of measuring performance and increasing efficiency began to creep into the public sector, and even though this deals with the public/governmental sector, it is indicative of the transformations of concepts such as efficiency and effectiveness vis-a-vis accountability.

Another critical idea that has influenced and helped shape the metrification phenomenon has been the idea of corporate social responsibility (CSR), which as Shamir (2011: 313) explains in the context of “social private regulation”, is not merely an “emergent world cultural” model because of the “role of corporations in shaping it”. CSR has found its way into the public sphere and, as the term implies, corporations are to be held responsible for their “operations in under-regulated countries” (Ibid). However, for reasons that may or may not be obvious, such policies are not meant to help set proper guidelines or even hold private entities accountable for their actions. On the contrary, these supposed regulations are meant to convey the idea that corporate responsibility exists, and the way to see if they are indeed responsible is to interpret their actions numerically, which will then reflect their adherence to social

³⁰ Emphasis added

responsibility. This interpretation is denoted by what Shamir (2013: 313-4) describes as a “shift in the political and legal sciences from the study of governments to that of governance (or ‘new governance’) and a corresponding interest in private and self-regulation (or ‘soft law’)”, in addition to these private entities being allowed to become regulatory bodies of the public as well as of themselves.

The effects of this scenario, which is relevant to our case study, is that by taking on the role of public actors, the idea that private actors and entities can act as public ones and is nothing out of the ordinary is cemented, and the mechanisms that help confirm this view include NPM and CSR. Similarly, Shamir (2011: 314) expounds on this idea by suggesting that non-state agents are “acting in the capacity of private authorities and engaging in norm creation and norm enforcement”, and goes further to show that the “novelty of CSR is that it encourages commercial and civic entities to promulgate social and environmental norms that were heretofore thought to be the domain of public authorities in general and of state governments in particular”. These norms apply inasmuch as states outsource their core functions to the private sector. And, given that outsourcing has appealed to governments over the years, the new norms are those compatible with self-regulation policies that emerged from the private sector. Pollitt and Bouckaert (2011: 9) show that from the mid-60s to the late 70s, centralised planning was an integral part of the government, but the rise of neoliberalism in the early 80s, with prominent figures representing it like Reagan and Thatcher, rolled back the role of planning and centralisation to the more appealing option of the “business-like approach”, which also happens to be immediately before NPM was introduced as a better form of governance.

For businesses to run properly, there needs to be a rubric or criteria on which they can be judged; standards such as the level of output, the quality of the product, customer satisfaction, prices compared to similar products in the market, and many others. Each criterion helps measure the performance of the product which then helps the consumer decide which product

and which service provider is best suited for their needs. Likewise, NPM has allowed governmental services to be measured and, as a result, if certain sectors of the government can achieve a higher degree of efficiency, it may be outsourced to the private sector. Such are the principles of NPM which, as Pollitt and Bouckaert (2011: 10) explain, include a range of principles that define it, such as “greater emphasis on ‘performance’, especially through the measurement of outputs”, also “a widespread injection of market-type mechanisms including competitive tendering”. This switch from government to governance or management, has been exemplified in the Iraq war because as, after the initial combat stages, the US began to roll out a series of neoliberal policies that were intended to change Iraq’s command economy and turn it into a free-market economy. However, in doing so, they contracted out major portions of its security services to PMCs that did not fulfil the promises of cost efficiency and effectiveness in executing their missions.

Based on the reports detailing the actions of PMCs in Iraq, the following argument could be made. The logic of the US in seeking to outsource its military functions because of PMC expertise in the field of security has been motivated by the idea that under this form of governance which uses the market/economy as the “grid of intelligibility” as Foucault (2008) put it, these companies will follow the same principles as does the market, mainly in terms of self-regulation. That said, we would argue that self-regulation of the market comes from it being a site of knowledge and truth. Such knowledge and truth presents “powers” that are emblematic of “self-regulating capacities of subjects”, stemming from “expertise”, which “have become key resources for modern forms of government” as Miller and Rose (2008: 26) explained. The next part of our analysis will look more closely at the idea of performance assessment and how that affects accountability for their actions.

Krahmann (2017: 545) notes the depoliticising effect of performance assessment or measurement, suggesting that these techniques “adopt largely technical and hierarchal forms

of accountability”. This brings us to a point we mentioned earlier about the risks of reducing elements to numbers. Numbers have become an essential element in evaluating everything, at public and private levels. The criterion has shifted from judgement based on democratic values; rather, it is now based on numbers and scales. This shift has wide implications regarding political, economic and social elements, and by closely examining the reason behind this transformation, we see neoliberalism is at the heart of it. Many examples of this transformation are evident by the rise of public administration and governance; such terms have manifested themselves in recent years, having been adopted by different branches of government and even implemented within the state’s security apparatus. As this chapter has demonstrated, security privatisation and PMCs are no different to the other governmental apparatuses subjected to new public administration techniques. As such, we can claim that Foucault’s analysis offers us the tools to better understand the logic behind why the US chose to outsource its military operations in Iraq, and the consequences that has on holding these companies accountable for their actions.

What we tend to find is that the level of involvement far exceeds what might be expected with respect to the role of private security contractors in Iraq. The greater the level of involvement, the more complicated it is to hold PMCs accountable. But, as we have shown, the neoliberal mode of governance takes on a different approach to assessing responsibility. In fact, this mode of governance serves as an instrument for analysis founded on the basis of economic calculations that “test governmental action, gauge its validity, and [allows them] to object to activities of the public authorities on the grounds of their abuses, excesses, futility, and wasteful expenditure.” This exemplifies what we have tried to demonstrate through this chapter in relation to PMC actions in Iraq and accountability.

Now that the thesis has examined accountability from the perspective of the employer as well as PMC actions, we will now move on to the final step. The next chapter is dedicated to

looking at accountability towards the employees. This is a critical component to our analysis because it looks at the perception companies have of their contractors.

Accountability Towards Employees

The third and final angle of exploring accountability is concerned with PMC accountability towards the employees. One point that needs to be briefly addressed is that aside from the moral objections that are to be held against contractors, any analysis accountability must address the perspective of the contractor. In essence, the contractors (or employees of a PMC) are carrying out duties for their employer, and often in dangerous environments. For this thesis, the focus is shifted to how military companies take responsibility for what happens to their contractors in the field. Our research question was to assess if using a Foucauldian analysis of neoliberalism with respect to accountability can add new ideas to the topic of PMCs in Iraq, the effects that they have had, and questions of their accountability. This requires us to summarise what our findings have been and, based on them, offering answers to these questions.

Fallujah: episodes of violence, neglect and neoliberal bureaucracy

The incident that has gained much attention, alongside those about the death of hundreds and the displacement of thousands of Iraqis, came about when Blackwater contractors were killed in the city of Fallujah. According to the documentary series *Private Warriors* by PBS Frontline, this was one of the most notorious incidents, one in which four Blackwater employees were killed by insurgents in Fallujah. According to a report on the PBS (2005) website: “they were killed, their bodies burned and mutilated, and two were strung up on a bridge over the Euphrates”. The incident occurred due to a combination of a misunderstanding of the situation involving Iraqi insurgents’ resistance to foreign occupation and neoliberal bureaucratic policies (Hibou, 2017). This was accompanied by a reformulation of accountability under neoliberal technologies of government. According to the court documents from *Helvenston vs Blackwater* (2005: 4), “that these four Americans found themselves located in the high-risk, war-torn City of Fallujah without armoured vehicles, automatic weapons, and fewer than the minimum

number of team members was no accident. Instead, the team was sent out without the required equipment and personnel by those in charge at BLACKWATER [*sic*].”

Following the incident, a lawsuit on behalf of the deceased contractors, *Helvenston et al. v. Blackwater Security* (2005: 4) was filed in which the plaintiffs claimed that the deceased contractors signed with the company under the impression that it would give them the proper equipment (weapons, bullets, blast-proof cars, etc.) and intelligence information for them to conduct the tasks they were assigned. More specifically, the lawsuit claims the security provider (Blackwater) neglected to fulfil many of their obligations towards their employees, Scott Helvenston, Mike Teague, Jerry Zovko and Wesley Batalona. Such obligations included the company providing “them with certain protections, tools, and information to allow them to perform their job”. Furthermore, the slain contractors were informed that “each security mission would be handled by a team of no less than six (6) members” (Ibid). In this case, there were only four members going into one of the most dangerous Sunni-occupied territories during the height of the invasion (Scahill, 2007: 162). What further complicates the matter is at that time, Fallujah was an extremely risky environment to be in, to the point where “nobody from the military in their right mind would have headed through Fallujah with only four men without serious firepower”, something which, according to Scahill, “Blackwater management was very well aware of” (Ibid:163).

Let us now examine these incidents not as a separate event but as part of the neoliberal dispositif. Blackwater, while clearly aware of the risks of going into a dangerous territory controlled by insurgents and possessing a fierce resistance to foreign presence in the area, decided to carry out this mission to satisfy its contractual obligations for ESS, a catering service that employed them to help deliver trucks containing kitchen equipment, according to PBS (2005). The question is, would the outcome have been different had the security provider fulfilled their obligations towards their employees by providing the ‘adequate number’ of

members to accompany them on the mission? Even though the more particular issue is one of numbers, in the greater context, Blackwater did not even fulfil the bare minimum requirement of having six people carry out this mission. The contractors were also told they would be assigned to a specific mission but, as soon as they were deployed, they were assigned different ones (PBS, 2005). Helvenston had “told a friend he expected to be guarding Paul Bremer, head of the Coalition Provisional Authority. But he never met Bremer. Blackwater had a new contract with a catering company, ESS, and they were scrambling to find new guards.” Furthermore, according to the contract with ESS, Blackwater knew first-hand that the security environment was extremely dangerous and laid out in writing that:

“The current threat in the Iraqi theatre of operations as evidenced by the recent incidents against civilian entities in Fallujah... there are areas that will require a minimum of three security personnel per vehicle... Therefore, to provide tactically sound and fully mission capable Protective Security Details, the minimum team in size is six operators” (Scahill, 2007: 163).

This exemplifies the neoliberal dispositif, whereby a security provider who are engaged in this war primarily for the purpose of making a profit prioritises taking on a lucrative contract over their obligations for the safety of their employees. But what is more in line with our thesis is, had there been the “minimum number” of personnel on the mission, they would have been legally complying with their obligations and, technically they could be accounted with full responsibility. As Scahill (2007: 162-3) explained, the two missing men from each mission would have been the rear gunman armed with “a 180-degree scope to mow down any attacker, especially from behind... without the third man, that meant the passenger had to navigate and defend from attacks pretty much alone”. Furthermore, “the men should have been in better-secured vehicles than SUVs, which are widely referred to as “bullet magnets” in Iraq because of their wide use by foreign contractors.”

In essence, these contractors entered into an agreement that was supposedly governed by the doctrine of *Uberrima Fides*. However, the aftermath of this agreement posed a serious

challenge for the following reasons. The agreement implied that both parties dealt in the utmost faith, and that in return for their service in Iraq, these contractors would be provided with certain protection for them to conduct their missions. However, under this regime of uncertainty, one party, the deceased contractors, did not have the same information as the employer (Blackwater). This further problematises the issue at hand because first, it undercuts the weight of the problem by trivialising it to a contractual/insurance case, and second, it overlooks the fact that Blackwater, whether knowingly or not, failed to provide an adequate protection detail even to its own personnel, thus negating the very essence of the good faith doctrine. This, we argue, is underpinned by the idea of the entrepreneurial mindset that has managed to envelop security and make structural changes in the way we view and understand accountability. If the literature on PMCs, CSS and traditional IR theories has called for ways to hold governments more accountable for violations of IHL or other crimes that they have committed, it has, we would argue, missed the essential point of what accountability means. For a neoliberal governmentality, accountability is not about holding the individual/entity responsible for their actions, but it is about *measuring* their performance with a number that would correspond to an individual/entity's success or failure to act responsibly.

Who should be held accountable for the killings of these contractors? Was it the American government, the employer (Blackwater) or the Iraqi government, which, at that time, technically did not exist and operated under the command of the US and coalition forces? Assuming there can be multiple levels of accountability to hold each entity responsible for the incident, what mechanism/criteria could be used to determine responsibility? This set of questions is essential to our analysis and to determining what the gaps in the literature on PMCs are. To put this in the context of our methodology, the challenge here is that under a neoliberal form of government, security (of individuals, states, contractors) is not a clearly defined term. Instead, we have different conceptualisations that ascribe a vague meaning to it. Another point

that is worth noting is that through accountability, the individual/entity is elevated to a high standard and considered honourable because of the sacrifices made. A lack thereof results in the death of contractors not evoking the same sentiments as that of the death of military personnel, even by the state that hired them. This is because, as Riemann (2014: 4) observed, “the indifference of the public to the death of contractors stems from the perception that they lack the sacrificial component”. This leaves no surprises when we come to study what the perception of contractors in Iraq was like.

What was the perception of contractors in Iraq?

PMC duties are twofold: first, to provide a service and second, to help manage security. Are these aspects connected or separate? Equally significant, are the contractors employed by these companies looking to provide a service for financial gain or is there another motive for joining?

Put this way, on the one hand, the core of neoliberal governance can be characterised as market strategies being deployed while substituting actual governmental/state practices. On the other, and given that we are using Foucault as the main theoretical framework, neoliberalism and a neoliberal governmentality signify that a state “retains its traditional functions” and “takes on new tasks and functions” and “develops indirect techniques for leading and controlling individuals without at the same time being responsible for them” as Lemke (2001: 201) observed by elaborating on Foucault’s understanding of neoliberalism. This type of thinking is seen as being encompassed in the US government’s decision to outsource its security and military capabilities to private firms. In doing so, the government cannot be held responsible for the actions of contractors as they are not the agent representing or acting on behalf of the state. What should be borne in mind regarding the mechanisms of keeping PMCs in check are in line with what Foucault pointed out in his lectures (*The Birth of Biopolitics*) and Lemke (2001: 201) articulated, which is that:

“The key feature of the neoliberal rationality is the congruence it endeavours to achieve between a responsible and moral individual and an economic-rational actor. It aspires to construct prudent subjects whose moral quality is based on the fact that they rationally assess the costs and benefits of a certain act as opposed to other alternative acts.”

In practice, this translates, as we will demonstrate in the next section, into a re-branding of security as a service whose assessment is based on patterns and where democratic accountability is subverted into non-democratic accountability through data analysis.

In summary, the marketisation of security services by the US government to PMCs in the Iraq war has been shown to have serious consequences. As the chapter has revealed, not only have PMCs had detrimental effects on the outcomes of combat operations, but the rolling out of neoliberal policies accompanied by the rolling back of the state has resulted in PMCs overriding the market mechanisms of competition and rigging the system to their benefit. The roll-out of neoliberalism has been accompanied by structural changes to the mode of governance using new mechanisms, giving new definitions of accountability and skirting democracy along the way. What is particular to these new mechanisms, revealed through the Foucauldian analysis is the idea that non-democratic accountability is intrinsic to neoliberal governmentality, as a consequence of the metrification and the use of performance measurements in lieu of democratic accountability.

Conclusion: Accountability Renegotiated via Neoliberal Modes of Governance

The objective of this thesis was to study the effects of neoliberalism on PMC accountability. Using an FDA of neoliberalism, the thesis aimed to demonstrate how this mode of governance alters the concept of accountability. Instead of claiming that private military and security contractors are escaping accountability, rather, accountability is reconfigured. This reconfiguration prioritises metrics and performance measures as the essential criteria for measuring how responsible private military entities have performed. In other words, PMC accountability under neoliberalism uses the economic grid to assess the answerability of these entities and their employees, thereby reformulating the concept to non-democratic accountability through economic analysis.

Furthermore, we would add to this argument by noting that based on our reading of *The Birth of Biopolitics* outlining Foucault's analysis of neoliberalism, we can observe the following. As societies began moving from disciplinary techniques towards security, this was accompanied by a change in the mode of governance of the population and the question of sovereignty. In other words, the security dispositif itself, we argue, is an instrument of neoliberal governmentality. As Peters (2008: 167) states, elaborating on Foucault's analysis of the modern state, one of its fundamental aspects was "involving specific political knowledge or 'political arithmetic'".

As such, our contribution is the use of Foucault as the theoretical framework as well as FDA as our methodology. Specifically, his interpretation of neoliberalism has enabled us to problematise the question of accountability vis-a-vis the existing literature. Performance-based subjects can be quantitatively assessed. From that logic, the way PMCs operate and how they are held accountable is not only governed by the economisation of security, but also by the

view of the security apparatus as an instrument in this type of governance, one that “lets things happen”.

What we mean by that is the security apparatus allows things to happen within certain limits. The mechanism for monitoring and holding PMCs and the contractors accountable did not involve a mechanism that controlled every aspect of how they operated or held them responsible for every wrongdoing. Instead, through the neoliberal grid, PMCs were judged based on their performance. This performance-based assessment is what came about as a result of what Foucault (2008) has described as the adoption of economic analysis and its application to subjects/areas that were previously under the administration of the state.

Accountability through Foucault and FDA

First, the problem: Narrow Scope or Missing the Point?

Foucault has been applied in different fields across social studies and humanities and his works have had a significant impact on the field, even to the point of being considered the “most cited name in the human and social sciences in the last few decades”, according to a survey cited in Ferreira-Neto’s paper (2018: 1). Nevertheless, the main reason this thesis has utilised Foucault’s work is that in addition to his unorthodox style of examining and dissecting the concept of neoliberalism and through his genealogical approach, applying it to a study of examining the effects of security marketisation in Iraq is a new angle that was much needed and, in our assessment, can fill a missing gap in the literature. The gap in question is the one addressing the presence of private contractors in Iraq and, more concretely, why the security was outsourced in the first place; i.e., the logic of marketisation and the effects that it had on holding them accountable for their actions examined through the lens of Foucault’s analysis of neoliberalism and security. The reason Foucault was used as the theoretical framework is that the literature on security and PMCs, both critical and mainstream, sidesteps the point this thesis has tried to answer. Instead, what the literature seemed to focus on is how accountability and

more oversight can be realised through, for example, increased regulatory policies. As one article suggested, a mix between public and private security can be a positive phenomenon but, to realise it, there must be:

“Adequate regulation, cooperation between market and state providers, and a balance between both so that commercial security efforts do not undermine the minimum level provided by the state.” (Claassen, 2011: 124).

It is important to note that means even though not all the literature here was written specifically about Iraq, which is the context for our study, much of it did come about as a response to the abuses and violations committed by contractors while operating there. This proposition is emblematic of the many articles and books detailed throughout the thesis, embracing an approach to integrating accountability into the mechanisms of PMCs. Similarly, other researchers have suggested that the reason why, for example, contractors have not been held responsible for their actions in Abu Gharib prison in Iraq during the invasion was “lack of political will and the objectives of the contracting state and also the state in which PMCs operate”, according to Fanara (2010: 48). IR and security scholar Deborah Avant tackled the subject from the angle of professional standards and the economic rationale of the mechanisms PMCs operate within, and how the state relinquishes control through “diffusion of control” as more players enter the market, thereby “undermining the state’s *collective* monopoly over the control of force” (2010: 185). Avant goes further to add that certain remedies for how to regulate PMCs and their employees (though she admits it will be a long road for PMCs to travel) is through “intergovernmental legal coordination” and “global industry standards” (ibid: 194).

Some of the literature did align with the direction of this thesis, although it did not address the central argument. For example, Leander (2010: 484-5) emphasises “three facets” that allow

PMCs to operate with “impunity”, which she classifies as, first, “risk/security” which feeds into the idea of PMC expertise; second, the state’s monopoly on violence as it relates to the “misrecognition of the actor status” and allows PMCs to “share” this monopoly rather than acting as agents of the state, and, finally, and this is the most important point for this thesis, that neoliberal governance results in “ad hoc accountability pursuits” and allows PMCs to continue with a “business as usual” attitude (ibid: 479-80). In other words, according to Leander, neoliberalism or neoliberal governance alters how accountability functions by granting PMCs impunity from prosecution and giving them special status that results from their expertise in managing risks and security, and also from the fact that they “share” the state’s monopoly on violence rather than being a tool to be utilised by it. While this is consistent with the major theme of the thesis, it lacks something that, as we have argued, can be explained by Foucault’s work.

What is Specific to Foucault’s Neoliberal Interpretation and What does it add to understanding PMCs in Iraq and Accountability?

Foucault’s examination of neoliberalism lays out not only its genealogy and how it has evolved, but also how it affects non-economic domains. As mentioned in his lectures, the essence of neoliberalism is competition as opposed to the liberal market perspective which emphasises cooperation. Further, Foucault explains how neoliberalism is generalised over other domains and how the method of application is treated (2008: 249), as given through his example of how modern states dealt with delinquents, criminals and the mentally ill which is through “what would be called in economic terms, a reduction in the transaction cost”. He further elucidates that the “mechanics” of the law serve essentially as an “economic solution” and that the “law” served as the “economic principle of penal power” (Ibid). This is important to our research because it shows that the underlying logic that governs the modern state, something which has evolved out of old disciplinary mechanisms, is based on economic calculations that weigh the

costs of pursuing action against unlawful conduct and that penalises said conduct in a way that seeks to “limit the negative externalities of certain acts” (Ibid: 253). As such, Foucault explains that the mechanism that neoliberalism employs depends on a number of factors, including “the quantity of punishment³¹ provided for each crime”, along with the “size, activity, zeal, and competence of the apparatus responsible for detecting crimes”; it also depends on “the size and quality of the apparatus responsible for convicting criminals and providing negative proof that they committed a crime” (Ibid: 254).

This brings us back to one of the main questions this research addressed, and that is how, under the neoliberal governance implemented in Iraq, can PMCs be adequately held accountable and, equally important, how is accountability enforced? Part of the problem with private contractors in Iraq was that on the one hand, it was difficult to differentiate between actions that constitute criminal behaviour and actions deemed to have been part and parcel of what they were required to do. One of the common responses to this challenge is how we can add accountability measures or if there are certain mechanisms that can be developed within the existing laws to hold PMCs accountable for their actions. Avant (2006: 327) suggested a framework that looks at the “benefits and risks associated with their use, and proposes some trade-offs that decision-makers in the United States should consider while contemplating their use in the future”. It is interesting to note that as problems resulting from lack of accountability became too visible to ignore after the proliferation in Iraq, the response by the private military and security industry, as well as the international community, came in the form of the ICoC and the Montreux Document, as we have mentioned in previous chapters. But what those responses do not acknowledge is that PMCs are held accountable by the standards of a neoliberal governmentality. Interestingly, these proposed solutions expand on the neoliberal

³¹ It should be noted here that Foucault uses the word ‘punishment’ in the same way Gary Becker uses it, by which he refers to “the means employed to limit the negative externalities” (2008:253).

logic of dealing with PMCs. What we mean by that is, in the ICoC (2010: 4), the code dictates that signatory companies must comply with and be subjected to government auditing, which would gather data about the companies and report back to the “governance and oversight mechanism, which will, in turn, verify whether a Company is meeting” KPIs. Taking a slightly opposing view on the good intentions of PMCs from an international legal perspective, Shah (2014: 2559) suggests that while the development of ICoC has been a positive step, the problem remains that “it lacks any kind of serious enforcement mechanism.” Shahn (Ibid: 2560) proceeds to suggest a new framework that applies the same approaches taken by the International Traffic in Arms Regulations (ITAR) and the Foreign Corrupt Practices Act (FCPA) to make the ICoCA enforceable to propagate systemic change in the private military and security industry. While both Avant and Shahn begin from the premise that PMCs pose a significant problem for the security domain, other analyses begin with a different perspective on PMCs, one that is more in favour of the industry.

Some analyses begin with the premise that PMCs are a force for good, and that the problem lies in existing accountability mechanisms which are simply not strong enough to hold them responsible for their actions. Major Jeffrey Thurnher (2008: 64), discussing the efforts of Blackwater (Academi) in Iraq, claims that, as contractors, they are “an extraordinarily professional organization” who carried out exactly what was asked of them, and that was to “protect the principal”. But in doing so, they were also negatively impacting on “counterinsurgency efforts.” Thurnher adds that it is because of improper accountability measures and several mistakes committed by the US government (such as the CPA’s Order 17 which protects contractors from being prosecuted) that the security situation in Iraq ended up the way it did. Similar to Shahn (2014), Thurnher points to existing legal frameworks, such as the Military Extraterritorial Jurisdiction Act (MEJA), which “provides for prosecutions of felony offenses committed overseas in certain situations” and had been extended in 2005 to

private contractors as well, though, admittedly, application by the DoD of MEJA “remained extremely rare” throughout the war (Ibid: 76-7). In the same vein, Brooks and Streng (2012: 311) claim that the US did have effective oversight and compliance mechanisms in place but, as the number of operations increased, they “overwhelmed the contract oversight force and meant that monitoring and enforcement have been (was) spotty”.

Each of those references represents a point of view on the spectrum of PMC management vis-a-vis accountability and compliance with domestic and international laws. Yet, each of these analyses (similar to others I have mentioned throughout this thesis) seem to overlook/sidestep the very important and, we would argue, ontological problem with respect to accountability, and that is the very nature of neoliberalism, the mechanism that enabled the existence of PMCs in the first place. This is precisely why this thesis sought to examine the effects of security marketisation and the use of private military and security companies in Iraq using a Foucauldian analysis. The reason for using this specific framework is that it reveals something that does not come up in the literature surveyed, namely the nature of neoliberalism and the application of a neoliberal governmentality, and how this can alter the perception of the issue of PMC accountability. The way this thesis has arrived at this conclusion, and the original contribution which this thesis proposes, is that by situating PMCs in Iraq within Foucault’s analysis of neoliberalism and security, we see that from the foundations of the modern state, the idea of managing populations and security has been an economic question. So how does that relate specifically to the subject under investigation? We will answer by summarising our framework, methodology and the three main chapters.

As Foucault put it: “the perfection of power should tend to render its actual exercise unnecessary” (Ibid). From that perspective, a new form of power is introduced, one that aims to modulate society or “measure these phenomena in statistical terms”, as explained by Foucault (2003: 243). It is key here to focus on the word *statistical* because this biopower

would eventually form the rationale of neoliberalism. The analysis put forth by Foucault is an attempt to break down the foundations of the system of governance of the modern state. With the problem of population, a new form of governmentality emerged, one that “has to refer to the economy as a domain of naturalness”. The idea here is to look to the economic domain to model the new mode of governance or the new governmentality. Foucault then begins to concretise the new mode of governmentality of American neoliberalism, which he summarises as “the application of economic analysis to a series of objects, to domains of behaviour or conduct” and the “generalisation of the grid of *homo oeconomicus* to domains that are not immediately and directly economic” (2008: 268). By contextualising our case study of PMCs in Iraq, specifically by examining what were the effects of using private entities on their accountability, we can see that Foucault’s work unearthed a critical piece of analysis that, we argue, is missing from the literature.

Why Iraq and what does Foucault add to this case study?

By identifying the mechanism deployed by the neoliberal governmentality which uses economic rationality to decipher non-economic domains, we begin to see the effects of security and military privatisation on accountability. The neoliberalisation of Iraq was a significant point in history, not only for the country itself but also for witnessing the implementation of a neoliberal mode of governance. Avant (2006: 329) attributes the uniqueness of the Iraq case regarding PMC proliferation to a number of reasons, including the shrinking number of troops following the Cold War which resulted in contractors being heavily relied on for operational support for the use of fighter jets, unmanned aerial vehicles, tanks, and, more importantly, the *changes brought by the government to the A-76 process*. The A-76 process or Circular refers to “government-operated activities and the private sector to determine whether commercial activities can be done by contract or an in-house workforce”, according to Goodfellow Air Force Base for Air Education and Training Command’s website. This mandate “encouraged

the military to look for additional outsourcing opportunities” (Avant, 2006: 329). This change in the way the US government opted to maximise efficiency while simultaneously minimising costs is emblematic of Foucault’s neoliberal governmentality and, more importantly, it demonstrates the importance of numbers and metrics as tools used in this mode of governance, with an objective of having a system that allows the individuals and entities (public and private) to act as economic agents. This becomes relevant when we discuss how accountability and self-regulation function as a part of neoliberal governmentality.

The end of the Cold War and the retrenchment of the state military created a void that allowed the rise of PMCs and made them indispensable during times of conflict and war. As Isenberg (2009: 1) explained, “the end of the Cold War gave states a reason to downsize their military” and “markets, like nature, abhor a vacuum, PMCs emerged to fill when conflicts emerged or wore on with no one from the West or the United Nations riding to the rescue”. Because of that, the scale at which contractors were used in Iraq was unprecedented, a claim supported by the fact that during the first Gulf War, the number of private contractors to US military personnel was 50:1, whereas, in 2003, the ratio was 10:1, as Stanger and Williams (2006: 4) have observed. However, what makes the 2003 Iraq War a special case is that, first, there was a surge in the number of PMCs engaging in all aspects of the war (maintenance, logistics, translation, etc.) and, as the conflict intensified, there was also a surge in the number of contractors who were engaged in combat and direct military operations.

Bowman (2007: 2) noted that “Iraq provides an example of how that surge in capability functions in contemporary battlespace. As conflict loomed in 2003, it was clear that combat in Iraq would entail private industry capabilities.” Second, the war itself serves as a modern example of the roll-out of neoliberal policies in a previously command-controlled economy, that of being in a rapid and unprecedented manner. While the rapid privatisation is something that Klein (2007) extensively covered and examined through the lens of the shock doctrine, we

would argue that reducing what happened in Iraq to the idea of ‘shock and awe’ takes away the complexity of the topic, and the use of PMCs is one of the best examples of this. The idea of privatisation in and of itself is the manifestation of a neoliberal governmentality whereby the economic grid identifies opportunities and applies itself to areas that were under governmental supervision and transfers them to the private sector, where they can be handled more efficiently and at lower cost. With that comes other transformations that change that domain and, in this case, accountability, which is what we have argued has been the effects to security marketisation in Iraq.

As we have pointed out, there is a substantial amount of work that has been done on PMCs, using Iraq and Afghanistan as case studies. However, it is our assessment that the literature examined with specific reference to accountability does not identify the uniqueness of the case study. Therefore, we would argue that by analysing the case through Foucault, we can see how Iraq’s importance as a case for studying the effects of PMCs and how they are held accountable can shed light on what is missing from the discussion. When considering the Iraq War, what we must take into account is that the war did not only involve the mobilisation of state military and the actual acts of combat, but it also signified a change in the state’s approach to war and towards the reworking on an entire mode of governance. This mode uses a set of tools that mirrors how the market operates and proceeds to assess and make decisions based on these tools. This is translated into how the US has implemented the neoliberalisation of security and military services in the form of what can be described as impunity or lack of accountability for PMCs, or so it would appear.

Bowman (2007: 1-2) explains, “the speed with which earlier practices of outsourcing have been overtaken by threats not contemplated only a few years ago” and “how the number and activities of private contractors have grown well beyond... thereby leading to regulatory and legal issues that have yet to be addressed” makes Iraq a peculiar case study to understand the

surge in PMCs. When the matter of accountability is broken down further, we can see that it is not merely at the top/decision-making level, but also in the theatre of operations itself. A study by Cotton et al. (2010: XIV) found that “survey results indicate that neither U.S. military nor the DoS appears to perceive PSCs (Private Security Companies) to be “running wild” in Iraq”. Although some responses in the survey would indicate that there have been incidents in which PMCs did not coordinate with military commanders or went beyond their scope, the majority of responses from the military and DoS did not see any problems with them. To that end, if we re-examine this using Foucault’s analysis that “the identification of the object of economic analysis with any conduct whatsoever entails an optimal allocation of scarce resources to alternative ends” (2008: 268), we can understand the need to compensate for the number of military personnel through the use of PMCs. In that process, these companies were subjected to the *homo oeconomicus* grid, which has changed not only their status but also how they were treated and how they were held accountable.

Foucault contra CSS and IR theories: An alternative solution or a new analysis?

In contrast to other CSS and IR theories which we have been pointed out in Chapters II and III, the application of Foucauldian analysis to the use of PMCs in Iraq does not seek to create new spaces for accountability, nor does it look for the gaps in international law in relation to these companies. Instead, what it does offer is an analysis of how accountability can be understood within the framework of a neoliberal governmentality and the impact it had on security. As Selby (2007: 325) posits, within the field of IR (and by extension, we can include security and military studies under that umbrella) Foucault has been employed in three ways: the first method is meant to challenge and critique realist IR frameworks, the second is to “analyse discrete discourses and practices of modern international politics”, and the third is to suggest new accounts for the liberal order. While we have critiqued and analysed the modern understanding of accountability through Foucault’s tracing of the modern state, we would take

an opposing stance to the third method because, as we will demonstrate in the next section, there is a limit to Foucauldian analysis. We would argue that by utilising Foucault as our theoretical framework, this thesis does not purport to offer a solution on how to hold PMCs accountable. Instead, our contribution is to show that by using this framework to analyse the marketisation of security and the presence of PMCs in Iraq, we can see that the problem is not the ineffective regulations or a special status under international law, but rather the mode of governance reinterprets accountability and assigns a new meaning that is based on economic calculations and performance measurement.

Recalling in Chapter II that arising from the field of CSS came the idea of securitisation, which Balzacq et al. (2016: 494) summarised as “(1) the security character of public problems is established, (2) the social commitments resulting from the collective acceptance of that phenomenon as a threat are fixed, (3) the possibility of a particular policy is created.” The premise of the concept, while perhaps more engaging than traditional IR approaches, if applied to the case of PMCs in Iraq, is still problematic as it does not engage with the underlying reason why PMCs were allowed to function the way they did, and the remedy to that situation. This is to say that if the economic grid serves as the main tool for governance and sees the idea of marketisation as the answer to the need to increase efficiency and minimise costs, the response to overcome these will not be to re-examine this mode of governance. Instead, and as we have seen, the response to dealing with the question of PMC accountability was to create methods that could measure and quantitatively assess how well a company adhered to a set of measures; the higher score achieved, the more it was seen as acting responsibly. By employing Foucault as a lens through which we can examine the subject, we can engage with the basic questions behind the drive to outsource military and security capabilities to PMCs and the effects that it had on understanding how accountability functions under a neoliberal governmentality.

The limits of Foucault and future research

There is no doubt that Foucauldian analysis does not provide an answer to every aspect of accountability, nor can it be said to offer viable solutions. As Keeley (1990: 85) has observed, in the realm of IR and regimes, “Foucault does not present a theory; instead, he provides analytic devices and interpretation”, and this is precisely the limit of our analysis. By narrowing our focus on providing an alternative way of examining the effects of PMC accountability following their use in the Iraq War, and avoiding the interpretation of the situation as the state’s loss of its claim on legitimate violence according to the Weberian notion, this thesis does not go past the critiquing point of the prevailing discussions.

A key point, which is not essentially a limitation but rather a challenge, is that his interpretation of sovereignty is essential to Foucault’s analysis. Selby (2007: 327), using R.B.J. Walker’s interpretation of Foucault, writes that sovereignty acts as a “discursive construct, which functions not so much to represent as to constitute the world of international politics”. The question now becomes, who has sovereignty and who has the right to exercise this power? Did PMCs infringe upon Iraq’s sovereignty or is the concept itself, from a Foucauldian perspective, a mere construct of the international political regimes? Does sovereignty imply the right to exercise power over citizens and demarcate state boundaries? As outlined in Chapter I, Foucault’s interpretation of the evolution of disciplinary techniques is the state’s use of a panopticon-like apparatus, along with a set of practices and technologies, enable it to exercise sovereign power over its citizens. Taking that into account, examining the impact of PMCs on Iraq’s sovereignty from a Foucauldian perspective, we are more focused on the biopolitical aspect, whereby there is a shift away from the territorial, and security is provided through “previously unknown institutions such as statistical bureaus and insurance patterns to establish its authority”, as Deleixhe (2018: 3) explained.

On that note, perhaps future research could expand on the concept of sovereignty and PMCs from a Foucauldian perspective. Given that our research is more concerned with how PMCs in Iraq have impacted our understanding of accountability, a possible avenue for future exploration might be related to sovereignty in relation to PMCs as seen through the Foucauldian lens, and what that means for a state's monopoly on legitimate violence, as well as the ability to wage wars via proxies. This can be seen clearly in the recent events that have taken place in Syria and Eastern Ukraine, most notably with the Russian paramilitary section known as the Wagner Group. According to Hauer (2019), it is a "shadowy mercenary outfit waging secret wars on the Kremlin's behalf from Ukraine to Syria to the Central African Republic", adding that they are "born out of a need for plausible deniability in Moscow's military operations abroad" and have been "at the forefront of some of the heaviest fighting in eastern Ukraine and Syria".

Whereas in Iraq, PMCs were technically brought on to assist the US military, this company seems to be more focused on carrying out operations and strategically influencing regions where Russian interests are present. Even more alarming is the fact that it has been tasked with backing certain parties in other regions; as Luhn (2019) reports, the group has backed Khalifa Haftar, "commander of Libya's breakaway eastern half" and has actively supplied his army with weaponry and heavy artillery. While the literature on this issue is recent and mostly concentrated in news articles, future research utilising Foucauldian analysis to examine the role of PMC agency and the question of sovereignty could venture into another IR territory.

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Endnotes

¹ Perhaps one of the more critical statements Foucault makes in *Society Must Be Defended* is that by placing his work in terms of “genealogy” (2003: 8-9), he seeks to flesh out some of the knowledges that have been buried by “formal systematizations,” also referred to as “subjugated knowledges”. The purpose is, thus, to have counter-knowledge, or a genealogy that “once it has described all the local discursivities” will then produce a type of “desubjugated knowledge” (2003: 11). In other words, tracing the foundation of an idea requires looking beyond what has been presented by any form of a systematised institution that seeks to restrict or confine knowledges or what has been established as scientific knowledge, and other knowledges that are no longer acknowledged by the system are rendered invalid. Foucault exemplifies his thought by referring to those who try to establish Marxism as a science (2003: 10), noting that their purpose is not to “demonstrate once and for all that Marxism has a rational structure and that its propositions are therefore the products of verification procedures”; instead, it is an attempt to “give those who speak that discourse the power-effect,” given the fact that it had been established ‘science.’ And so, by giving this example, Foucault reveals the importance of the power-knowledge nexus of institutions and how it can impact and even delegitimise other knowledges that do not fall within its parameters.