

## *Soldiers for Rent*

The Private Contractors Fighting America's Wars

There are now about 180,000 civilian private contractors working in Iraq for the United States government. That figure, first reported in a front-page *Los Angeles Times* article in July, comprises 21,000 Americans, 118,000 Iraqis, and 43,000 other foreigners—a total greater than the number of actual U.S. troops in the country (about 160,000).

A subset of the larger defense industry, private military firms have long served the American military, particularly for support functions like construction and transportation. There are three general categories of such companies, according to Peter W. Singer, a Brookings Institution senior fellow and an expert on private contractors. First are *support firms*, which offer logistics, intelligence, and technical support. The classic case is

Brown & Root, which built much of the U.S. military's infrastructure in Korea and Vietnam, where it employed 52,000 civilian contractors. In a second category are *consulting firms*, such as MPRI (Military Professional Resources Inc.), which was responsible for training much of the new Iraqi Army from 2003 to 2004. Finally, there is a third, more controversial category: *military provider firms*, contractors that sometimes participate in front-line tactical actions, commanding lethal force and operating within the area of direct combat operations. In Iraq, for example, employees of Blackwater USA and Custer Battles, among others, have engaged in actual hostilities. The Pentagon estimates that there are around 6,000 such "security contractors" in this newest category currently in Iraq working for the U.S.

government, although some estimates are much higher.

The use of private warriors, of course, has been commonplace in military history. The Egyptians, the Chinese, the Greeks, and even the Romans used mercenary troops in their wars. In the ancient world, rulers routinely hired foreign fighters, especially to fulfill military functions requiring know-how, equipment, or experience, like archery and cavalry. During the Middle Ages, feudal lords often outsourced their needs for cannon and crossbows, and by the seventeenth century, European war-making became an exercise in capitalism: military entrepreneurs would sometimes form joint stock companies and appeal to investors for funding.

Private armies only went into decline with the rise of the modern state system in the late seventeenth century. States began to claim a monopoly on the use of military force, and among citizens a new ethos of loyalty and patriotism arose—developments that served to delegitimize the activities of mercenary companies. For centuries, profit-seeking adventurers had traveled to enlist in the armies of foreign princes, but circa the year 1700, European states enacted laws forbidding their citizens from bearing arms in the service of other states. The Napoleonic wars marked “the ultimate inflection point” in the shift from private to state-run armies, as Singer put it in his 2003 book *Corporate Warriors: The Rise of the Privatized Military Industry*. Although the West continued occasionally to use mercenaries and foreign units to fight

its wars (witness Britain’s hiring of the Sepoys in India) for two centuries private military forces have been mainly relegated to pre-modern backwaters.

But the past two decades have seen the return of the private warriors. One reason for this renaissance is new high-tech weapons—like Predator drones or Aegis anti-missile batteries—whose operation and maintenance are often most easily performed by the vendors that invented them. Another reason, according to Singer, is the “massive demobilizations” that followed the end of the Cold War, resulting in “a sharp increase in military expertise available to the private sector.” Those demobilizations also produced a glut of inexpensive military equipment on world markets. At the same time, American policymakers have shown a new willingness to turn government functions over to the private sector in order to improve performance and cut costs—a privatization revolution, begun in the 1990s, that saw for-profit companies take over the administration of some schools, prisons, and other government-run services. The defense sector has not been immune.

Logistics—the transport, provisioning, and maintenance of military deployments—was among the first military functions to face broad privatization. Some logistics had been privatized in Vietnam, especially the construction of roads, barracks, landing strips, and the like. In 1992, though, then-Defense Secretary Dick Cheney commissioned Brown & Root to produce a classified report examining the benefits of

greatly expanding logistics privatization. The report led the Pentagon to solicit bids from thirty-seven firms for an unprecedented five-year contract to provide the bulk of the Army's overseas logistics needs. Later that year, the Defense Department chose Brown & Root as the first such umbrella logistics contractor.

The move toward the hiring of private companies continued during the Clinton administration. A 1996 Defense Science Board report on "Outsourcing and Privatization" found that further contracting of support services would yield annual savings of \$7 billion to \$12 billion—and urged "aggressive outsourcing":

The Task Force believes that all DoD support functions should be contracted out to private vendors except those functions which are inherently governmental, are directly involved in warfighting, or for which no adequate private sector capability exists or can be expected to be established.

And during the current Bush administration, former Secretary of Defense Donald Rumsfeld was an outspoken advocate of privatization, arguing for the need for "competitive outsourcing so that we can get military personnel out of nonmilitary tasks and back into the field," as he put it in the *Washington Post* soon after the fall of Baghdad in 2003. The result of these years of privatization has been a rapid expansion of all three categories of the private military industry. In a 2002

article for *International Security*, Singer estimated annual revenues of \$200 billion for the entire industry, noting also that "over the next few years, revenues are expected to increase about 85 percent in industrial countries and 30 percent in developing countries."

The firms are highly controversial. Objections to their work fall into two broad categories: economic efficiency and lack of proper oversight. While privatization ostensibly offers competitive benefits, certain countervailing factors serve to undermine those cost savings in practice. For example, the Department of Defense awards many contracts without a bidding process. A 2004 study by the Center for Public Integrity found that 40 percent of Pentagon contracts from 1998 to 2004 were no-bid, including a five-year, multi-billion dollar contract with KBR (the descendant of Brown & Root) for rebuilding Iraq's oil fields. And since the management of private firms is accountable only to shareholders, there are powerful incentives to swindle the government by overcharging and cutting corners. In 2004, an Air Force memo cited Custer Battles, a security firm with contracts to guard Baghdad International Airport and establish centers for converting old Iraqi dinars to new ones, for massive fraud. The company, which under the currency contract was entitled to bill its expenses plus a 25 percent profit margin to the Air Force, requested \$9,801,550 in reimbursements for expenses no greater than \$3,738,592. In a November 2003 e-mail entered

into evidence during the course of a lawsuit, Derek Fox, a program manager for the currency contract, labeled it the “poorest run [Department of Defense] contract I’ve ever come upon.” And even without overbilling, weapons-toting employees of private military contractors are often paid about \$600 per day, five or six times what the average U.S. soldier earns.

The contractors and the Pentagon acknowledge the no-bid procedures and inefficiencies, but have still defended their actions. Under federal law, no-bid contracts are permitted if an “urgent and compelling need” can be demonstrated. Chuck Dominy, a top lobbyist for Halliburton, defended the awarding of the no-bid contract to his company to put out oil well fires in Iraq in 2003: “We are the only company in the United States that had the kind of systems in place, people in place, contracts in place, to do that kind of thing.” Blackwater, which has mainly been charged with guarding installations and dignitaries in Iraq, offers a similar defense on its website: “Every one of our contracts was based on Blackwater’s merits and capability to do the job. No-bid contracts result from urgent and compelling needs of the U.S. Government; not political connections.” And when fraud is uncovered, the firms tend to pay the money back; after \$6.3 million in kickbacks were exposed in 2004, for example, Halliburton quickly returned the dirty money to the U.S. government.

Indeed, despite this arrangement’s potential for graft, the new contractors

still save taxpayer dollars. Although their employees are often paid more *per day* than U.S. troops, their *total* compensation is not much different because they are paid for fewer days and are ineligible for the extensive benefits, like reduced college tuition, that American troops enjoy. The companies operate in a highly competitive marketplace, with razor-thin profit margins of just a few percentage points above costs. If they do cheat the government, they risk the loss of future business—Custer Battles, for example, was suspended from future U.S. contracts for its fraudulent billing. Even with their occasional fraud and inefficiencies, competitively bid military contracts still save an average of about 30 percent, according Center for Naval Analyses.

Another class of criticisms is the lack of oversight and regulation. First, there is the problem of jurisdiction: if contractors commit crimes, where are they to be tried? The prosecution of contractors has been a matter of U.S. civilian jurisdiction under a 2000 law called the Military Extraterritorial Jurisdiction Act. But because of the difficulty civilian prosecutors face in pursuing contractors thousands of miles away, this jurisdiction results in effective impunity. Dyncorp Inc., for example, a logistics contractor responsible for servicing military equipment, fired eight of its employees between 1999 and 2000 for purchasing teenage girls as sex slaves in Bosnia. Not one has been prosecuted. Six employees of CACI International and Titan Corp., contractors that provided interrogation

and translation services at the Abu Ghraib prison in Iraq, were implicated in abuses during the 2004 scandal there—but unlike their uniformed counterparts, they have never been prosecuted. Late last year, Congress moved to make contractors eligible for court-martial under the Uniform Code of Military Justice, but the Pentagon has yet to issue guidance to troops in the field implementing the new jurisdiction. And although contractors can be theoretically prosecuted by the country in which they are operating, in Iraq, the Coalition Provisional Authority's Order 17 from 2004—which is still in effect—has explicitly granted contractors immunity from Iraqi prosecution.

Human rights groups have complained that in the absence of a clear legal framework, Iraqi civilians are at risk because contractors are effectively free to set their own regulations. Although Order 17 sets up “rules for the use of force” by contractors in Iraq, such rules don't apply in other countries and aren't necessarily followed by the firms' employees. Author Robert Young Pelton, who spent three years researching and observing private military companies, claimed in a February 2007 interview that contractors in Baghdad use “machine guns like we use [car] horns,” even though the rules instruct them to “fire only aimed shots.” Laura A. Dickinson, a professor at the University of Connecticut School of Law, surveyed sixty publicly-available Iraq contracts with private firms, including those for CACI and MPRI, and found that none contained provi-

sions requiring contractors to adhere to human rights, anti-corruption, or transparency norms. Still, many firms, including Blackwater, are members of the International Peace Operations Association, an industry trade group, and pledge to abide by the group's code of conduct that “encourage[s]” them to adhere to “all rules of international humanitarian law and human rights law that are applicable.”

Finally, critics argue that the process of purchasing private military services is too opaque. Deborah Avant, a political science professor at George Washington University, argues that the use of contractors “shifts authority from the Congress to the executive” because contractors can be deployed directly by the executive branch outside of the normal defense appropriations process, drawing reduced public and congressional scrutiny. Their deaths are not officially counted in the Pentagon's death tolls and receive scant media attention. A study by the Project for Excellence in Journalism found that out of a sample of 100,000 media stories from the past four years on Iraq, just 248—less than one quarter of 1 percent—mentioned private security contractors at all. The Defense Department's information on the contractors is so meager, in fact, that in 2004, a Pentagon official called Singer to ask for *his* estimate on the number of American contractors in Iraq.

In recent years, Congress has finally begun to pay attention. An early version of an amendment to the 2005 defense appropriations bill, proposed by

Connecticut Senator Christopher Dodd, would have banned the use of contractors in combat and interrogations. More recently, an amendment to the 2008 defense authorization bill, approved by the House of Representatives this spring, would establish guidelines governing contractor weapons and uniforms, create a database of contracted firms, and track their casualties. This amendment may not make it through the legislative meat-grinder, but if it does, and if the Pentagon implements the UCMJ jurisdiction change, then contractors accompanying U.S. forces overseas may for the first time be actually subject to legal sanction and regulatory oversight.

Yet the privatization should still make us uneasy, because there is another price we pay for even the most well-regulated and cost-effective privatization: the virtue of our warriors. As it stands now, the all-volunteer army makes use of market principles but has not surrendered to them. To switch to private firms, though, is to turn war over to the marketplace on a scale not seen since the 1700s. Soldiers' pay is

far from adequate for the goals they achieve and the burdens they bear. In its highest sense, military "service" is for far more than the money: our troops join out of duty, patriotism, or even a desire for greatness. They fight to give back to the society that has given them so much, endangering their own lives abroad to protect ours here at home. It is for this sacrifice that they deserve our admiration—regardless of the conflict in which they fight. The private soldier of fortune claims none of this virtue. Just another dangerous man laboring at dangerous work, he is without a G.I. Bill education, veterans' health care benefits, or burial in Arlington National Cemetery.

Combat is not merely another occupation, and we should be wary of degrading such a noble calling by renting it out. Soldiers, sailors, airmen, and marines are a special breed, to be distinguished from the masses not only by vocation, but also by the character of their souls.

—*Habib Moody*, a New Atlantis intern,  
is a student at Yale University.