Contracting for Services in U.S. Military Operations

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When the U.S. deploys its forces around the world, an increasingly important part of its operations is no longer managed by the U.S. military, per se, but rather by what some call contractors, others call private military and security companies, and still others call mercenaries. In this essay, I will briefly describe the private security industry and the larger global market for force that it is a part of and how the U.S. military's increasing reliance on private forces brings both benefit and risk.

To get an idea of the private security industry's role in U.S. military operations, consider the recent experience in Iraq. When the U.S. defeated the Iraqi Army in 2003, between one in ten to one in six personnel the U.S. deployed to the theater were civilian employees of private security companies (PSCs) performing the work that used to be done by soldiers. As U.S. forces were stretched thin by the lawlessness that followed the fall of Saddam Hussein, an "army" of private security forces surged into the country—to train the Iraqi police force, the Iraqi army, and a private Iraqi force to guard government facilities and oil fields, and to protect expatriates working in the country. In May 2004, Secretary of Defense Donald Rumsfeld estimated that in excess of 20,000 private security personnel were in the country (making private soldiers the second largest member of the "coalition of the willing"). In fact, if one combines the set of support and training personnel with the estimated set of private and site security personnel, the numbers are much higher than that. As many as 58,000 private security personnel may have been working in the country at that time.[1] The Pentagon's first census of the number of contractors in Iraq, released in December 2006, counted 100,000 contractors working for the U.S. government alone.[2] In addition to this 100,000, countless others work for various governments, private firms, and international non-governmental organizations (NGOs). These personnel are citizens of countries as varied as Fiji, Israel, Nepal, El Salvador, the Philippines, South Africa, the United Kingdom, and the U.S. They are employed by more than 50 different PSCs. The experience in Iraq is not unique—it is only the latest manifestation of a trend toward the privatization of security that mushroomed in the 1990s.

PSCs have become increasingly involved in the *delivery* of security services. A few examples illustrate this trend. When the 1995 Dayton Accords required that the Bosnian military be rebuilt, MPRI, an American firm, was hired to advise and train the Bosnian military. Every single international civilian police officer the U.S. has sent abroad since 1994 has been a DynCorp employee. Every multi-lateral peace operation conducted by the UN in the 1990s was accomplished with the use of private security companies.

The private sector is also increasingly involved in *financing* security services. Transnational corporations such as BP, Exxon, and DeBeers stand alongside international NGOs such as CARE and WWF in contracting with private security companies for site security and security planning in unstable parts of the world.

The industry that has grown to meet this demand consists of companies that can provide a wide range of military and policing services. On the military side, they provide such services as operational support, advice and training, and logistical support. On the policing side, they provide such services as site security, crime prevention, and intelligence. The range of services provided by an individual company varies considerably—with some companies providing close to the full range and others specializing in one or more segments of the market.

All PSCs, however, operate as service sector companies frequently do. They are contract organizations with a relatively small set of full-time employees and a capacity to bring in large numbers of specialists for a given contract. These contract employees may have little loyalty to that company—and in fact are often on the rosters of many different companies. Once in a theater—like Iraq—they may switch employers as frequently as contracts (some as short as six weeks) come and go.

This use of private security providers provides the U.S. a variety of benefits, which I outline below.

1. Surge and Flexibility

As seen in Iraq, PSCs can provide "surge" capacity to quickly field additional forces. Without the political and bureaucratic lead time required for mobilizing military forces, PSCs could move forces in to Iraq to accomplish a wide variety of tasks. As quickly as these forces can appear, they can disappear; once dangers pass or local forces are trained and deployed, contracts can lapse and these personnel can be quickly de-mobilized.

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2. Specialized Skills

PSCs can also more easily field the kind of forces most needed. These companies recruit from databases of mostly retired military and police personnel. This makes it easier for them to hire people with particular experience. So, for instance, a PSC can specifically recruit retired MPs, civil affairs officers, and special forces. PSCs can also recruit personnel with particular skills—in language or area expertise—or particular experience—establishing order after a civil war. It is much harder for national military organizations to find those kinds of specific skills and experience and deploy them to a particular arena.

3. PSCs can recruit internationally

As I mentioned earlier, PSCs have been able to bring in representation from a wide range of countries. As one U.S. Army staff sergeant put it in 2004, "We're trying to get more international participation here and the contractors can hire internationally."

4. It is politically less costly to field PSCs

Private contractors are seen to be working for profit, of their own choice, and sending them abroad is not held by leaders to the same standard as sending national troops. Thus, in the wake of the Cold War's end when the size of U.S. forces were cut to satisfy political demands, outsourcing tasks like logistics through the LOGCAP program was seen as a way of doing more with fewer troops. Similarly, for those who believe both that a long-term commitment is crucial to successful nation building in Iraq and that the U.S. cannot politically sustain just such a commitment, the use of PSCs reduces troop casualties, which may help better maintain public support.

The use of private security also generates a number of costs and risks. Some of these are practical and short term and others are longer term and more political.

1. Cost

PSCs may be more expensive than military forces—particularly when they are required to meet the military's high-level and quality of service or when there are high levels of danger. The latter issue arose in Iraq. Surge capacity comes at a high price. Recruiters must deal with supply and demand. The huge demand for security precipitated by the turmoil in Iraq created a seller's market. People working for PSCs in Columbia, for instance, reported being offered three times their salary to move to Iraq. Even in less volatile situations, privatization (or, more accurately, competition) sometimes saves money because it inspires new ideas about how to deliver a service that requires fewer people or fewer or different materials. The more the U.S. wants PSCs to mimic the military exactly, the more it limits this flexibility. Without this flexibility, the cost of using PSCs increases. For instance, the Army's initial outsourcing of ROTC training required levels of fitness, training, and experience that would produce trainers almost indistinguishable from active duty equivalents—but at an additional cost. This is an area for more study. But one should *not* assume that privatizing saves money.

2. Reliability

To minimize costs, the government may contract a company that will deploy fewer personnel or personnel with fewer skills or professionalism; worrisome deficiencies indeed on a battlefield. Periodic reports out of Iraq, both during the conflict and particularly as the insurgency accelerated in the spring and summer of 2003, have claimed that supply has been inadequate because civilian contractors failed to show up. According to Lt. General Charles S. Mahan, Jr., the Army's senior logistics officer, "[w]e thought we could depend on industry to perform these kinds of functions . . . [but it got] harder and harder to get [them] to go in harm's way."[3]

3. Integration

Two kinds of issues are associated with integration: the integration of contracted personnel with regular personnel and the degree to which parsing tasks to be contracted impedes integration. The integration of contracted personnel has been a constant worry in Iraq, and its lack has hindered information sharing and muddied the definition of roles. Contracted tasks are also harder to change in the field where there is no flexibility to deviate from the contract. As the insurgency grew in Iraq and requirements changed, contracting officers—those who can actually change contracts—became in high demand and in low supply.

Just as important, though, is that contracting itself requires the divvying up of tasks subsidiary to the overarching goal. Even if the task is clear, once assigned to a contractor successful execution of the task may lead away from integration with the larger goal. An example of this is the way in which personal security details have impeded the counter-insurgency effort. PSCs are given the job of keeping important individuals safe. Their strategy for doing this, however—driving at very high speeds, not stopping at intersections, etc.—has kept officials safe, but sometimes at the cost of alienating the very public the U.S. and the fledgling Iraqi government are trying to win over.

4. Legal Ambiguity

The laws of war have been designed for traditional militaries. The legal status of personnel deployed by PSCs is often unclear as are the mechanisms by which their rights and responsibilities are meted out. This poses problems for both private security personnel and those with whom the coordinate. The legal status of private security personnel is unclear. Unless they are commissioned by a government, they are not combatants. To the degree that they are working toward military objectives, though, neither are they non-combatants. This can pose serious risks for individuals: they may not be accorded POW status if captured by the enemy or may face criminal prosecution for acts committed in the line of duty.

This legal limbo also introduces more risks *from* security personnel. Again, unless they are commissioned by governments, private security personnel are not governed by military justice systems. When private security personnel break laws, it is often unclear how to hold them accountable. Sometimes this is because the law they are subject to is unclear, other times it is because there is no practical legal forum in which to prosecute them. For whatever reason, there have been virtually no criminal prosecutions of private security personnel in Iraq. Though these are the most serious, other legal issues abound: witness the recent brouhaha over the dismissal of the suit against Custer Battles for fraud and the decision that cleared the way for a wrongful death claim against Blackwater.

The two final risks are longer term and more political.

5. Political Change

The political process works differently when the U.S. hires contractors. It is less transparent, it advantages the executive branch over the legislature, it enhances private, interested

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influence in the policy process, and sometimes it also advantages the foreign government or private corporation that is paying for the service. The reduction of transparency and advantage to the executive branch erode the democratic processes that surround policy. The advantaging of foreign or commercial interests in U.S. foreign policy increase the risk that policy will serve narrow rather than broad interests.

6. Change in the Military Profession

The blurring of lines between what soldiers and what private security personnel do may also inhibit military innovation. Costly changes may be less attractive than outsourcing. It also may erode the professional ethos of the military. Opportunities in the private sector have already had an impact on retention and some worry that if forced to compete with the private sector, the military will lose unique and important professional qualities that are crucial to successful security operations in a democratic setting.

In thinking about the best way forward concerning the U.S. use of contractors in military operations, there are a variety of viewpoints. There are three broad alternatives. One option is to define and scale back the use of PSCs in core military functions (reducing concerns about reliability and integration), deal with the practical concerns surrounding cost, and think creatively about practical ways to hold PSC personnel legally responsible for their actions. One possibility is to create something like a sponsored reserve (though this may be complicated because personnel are recruited from around the world). This option would do the most to assuage long-term political concerns, but will also require thinking creatively about how to expand or recast the forces we have to deal with a cutback in private support. Any cutback would require a way to substitute for the level of private force the U.S. currently uses, either by reducing U.S. commitments, adding to and changing the structure of the U.S. military, or finding other partners.

A second option is to simply accept that PSCs will play a significant (and perhaps even increasing) role and let the market take its course. Even advocates of free markets agree, however, that the effective functioning of markets requires some legal structure. Interestingly, many PSCs have argued as much, requesting some regulatory framework to enhance the legitimacy of reputable firms, reduce risk, and ease the operational inefficiencies associated with a market of multiple standards.

The third option is to look for ways to ameliorate more pragmatic costs by finding new tools that reward proper behavior among PSCs. The creation of professional, ethical, and/or legal standards may be one way to move forward in this scenario. For instance, one could imagine a system to license private security professionals whereby professional standards could be issued, individuals could lose their license for violations, and firms could demonstrate their ethical commitments by hiring only licensed personnel. This might ease concerns about reliability. There are a variety of efforts—in the U.S. as well as in the UK and Europe—to begin thinking about standards, though they are in their infancy.

Given the current political climate, the first option alone is unlikely. Even though some presidential candidates are proposing an increase in the size of U.S. forces, no one is proposing an increase large enough to put a serious dent in the number of contractors. Thus scholars and policy makers alike should be thinking creatively about market standards—and other institutional frameworks—that might ameliorate the short term costs of using contractors.

Notes

1. This number simply combines the 20,000 personnel Rumsfeld reported with the numbers reported to be supplying logistics by the Brookings Iraq Index (www.brookings.edu/iraqindex).
2. Renae Merle, "Census Counts 100,000 in Iraq," *Washington Post*, December 5, 2006, D01.
3. See "Outsourcing War," *Business Week*, 15 September 2003; David Wood, "Some of Army's Civilian Contractors are No-Shows in Iraq," Newhouse News Service 31 July 2003; this was also referenced in a draft of what became, *On Point: The US Army in Operation Iraqi Freedom* (Office of the Chief of Staff US Army, Fort Leavenworth: Combat Institute Press, 2004). In the final version of the document, difficulties with logistics are mentioned but there is no mention of contractors.
4. Brookings Institution, *Iraq Index*, August 31, 2006, 16. www3.brookings.edu/fp/saban/iraq/index20060831.pdf.
5. Renae Merle, "Census Counts 100,000 in Iraq," *Washington Post*, December 5, 2006, D01.
6. Pratap Chatterjee, "Defense Base Act Contractor Casualty Report," August 8, 2006, available at www.mountainrunner.us/files/contractor-deaths1.pdf. This number is based on Department of Labor Statistics required by the Defense Base Act. See also Brookings Institution, *Iraq Index*, August 31, 2006, 14, available at www3.brookings.edu/fp/saban/iraq/index20060831.pdf., which lists the number at 348.
7. Deborah Avant, "Globalization, Private Security, and Democratic Processes," manuscript.
8. Dawn Kopecki, "When Outsourcing Turns Outrageous: Contractors May be Saving the Army Money. But Fraud Changes the Equation," *Business Week*, July 31, 2006, 54.

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Appendix 1

Fact Sheet: Contracting for Military Services in the U.S.

Estimated number of contractors providing logistics services in Iraq: 38,305[4]

- U.S. expatriates	11,860
- Third country nationals	900
- Host country nationals	35
- Sub-contractors and labor brokers	25,510

Other services provided by PSCs in Iraq:

- Site security
- Personal security details
- Police and military training
- Intelligence
- Weapons and military systems support

Number of contracted personnel in Iraq reported by the military's first census in 2006: 100,000[5]
Total number of U.S. troops in Iraq: 138,000
Number of contractor deaths in Iraq: 608[6]
Number of U.S. military deaths in Iraq: 2,617
Ratio of *New York Times* articles on Iraq mentioning U.S. troops to those mentioning military and security contractors in 2003 and 2004: 39:1[7]
Primary legal tool for prosecuting criminal behavior by U.S.-funded PSCs in Iraq: Military Extra-territorial Jurisdiction Act (MEJA)
Number of prosecutions under MEJA in Iraq: 0
Amount of U.S. expenditure on contractors for security services (not including weapons or research and development):[8]

- 2000: $53 billion
- 2001: $56 billion
- 2002: $65 billion
- 2003: $85 billion
- 2004: $94 billion
- 2005: $104 billion

Largest consumer in global private military and security industry: U.S. government
Other consumers: Governments (ranging from strong states like the UK, Australia, and Canada to weak states like Liberia, Nigeria, Afghanistan, and Iraq); Corporations; NGOs, private citizens.

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