

POLICY PAPER
Number 4, September 2007

Can't Win With 'Em, Can't Go To War Without 'Em: Private Military Contractors and Counterinsurgency

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EXECUTIVE SUMMARY

The recent incident involving Blackwater contractors in Iraq has brought to light a series of questions surrounding the legal status, oversight, management, and accountability of the private military force in Iraq. This for-hire force numbers more than 160,000, more than the number of uniformed military personnel in Iraq, and it is a good thing that attention is finally being paid to the consequences of our outsourcing critical tasks to private firms.

An underlying question, though, is largely being ignored, whether it made sense to have civilians in this role in the first place. Regardless of whether the Blackwater contractors were right or wrong in the recent shootings, or even whether there is proper jurisdiction to ensure their accountability or not, there is a crucial problem.

The use of private military contractors appears to have harmed, rather than helped the counterinsurgency efforts of the U.S. mission in Iraq. Even worse, it has created a dependency syndrome on the private marketplace that not merely creates critical vulnerabilities, but shows all the signs of the last downward spirals of an addiction. If we judge by what has happened in Iraq, when it comes to private military contractors and counterinsurgency, the U.S. has locked itself into a vicious cycle. It can't win with them, but can't go to war without them.

The study explores how the current use of private military contractors:

- *Allows policymakers to dodge key decisions that carry political costs, thus leading to operational*

choices that might not reflect public interest. The Abrams Doctrine, which has stood since the start of the all-volunteer force in the wake of Vietnam, has been outsourced.

- *Enables a “bigger is better” approach to operations that runs contrary to the best lessons of U.S. military strategy.* Turning logistics and operations into a for-profit endeavor helped feed the “Green Zone” mentality problem of sprawling bases, which runs counter everything General Petraeus pointed to as necessary to winning a counterinsurgency in the new Army/USMC manual he helped write.
- *Inflames popular opinion against, rather than for, the American mission through operational practices that ignore the fundamental lessons of counterinsurgency.* As one set of contractors described, “Our mission is to protect the principal at all costs. If that means pissing off the Iraqis, too bad.”
- *Participated in a series of abuses that have undermined efforts at winning “hearts and minds” of the Iraqi people.* The pattern of contractor misconduct extends back to 2003 and has involved everything from prisoner abuse and “joyride” shootings of civilians to a reported incident in which a drunken Blackwater contractor shot dead the security guard of the Iraqi Vice President after the two got into an argument on Christmas Eve, 2006.
- *Weakened American efforts in the “war of ideas” both inside Iraq and beyond.* As one Iraqi government official explained even before the recent shootings, “They are part of the reason for all the hatred that is directed

at Americans, because people don't know them as Blackwater, they know them only as Americans. They are planting hatred, because of these irresponsible acts."

- *Reveals a double standard towards Iraqi civilian institutions that undermines efforts to build up these very same institutions, another key lesson of counterinsurgency.* As one Iraqi soldier said of Blackwater. "They are more powerful than the government. No one can try them. Where is the government in this?"
- *Forced policymakers to jettison strategies designed to win the counterinsurgency on multiple occasions, before they even had a chance to succeed.* The U.S. Marine plan for counterinsurgency in the Sunni Triangle was never implemented, because of uncoordinated contractor decisions in 2004 that helped turn Fallujah into a rallying point of the insurgency. More recently, while U.S. government leaders had planned to press the Iraqi government on needed action on post-"surge" political benchmarks, instead they are now having to request Iraqi help in cleaning up the aftermath of the Blackwater incident.

The U.S. government needs to go back to the drawing board and re-evaluate its use of private military

contractors, especially armed roles within counterinsurgency and contingency operations. It needs to determine what roles are appropriate or not for private firms, and what roles must be kept in the control of those in public service. As part of this determination, it is becoming clear that many roles now outsourced, including the armed escort of U.S. government officials, assets, and convoys in a warzone, not only are inherently government functions, but that the outsourcing has created both huge vulnerabilities and negative consequences for the overall mission. A process must immediately begin to roll public functions back into public responsibility.

Our military outsourcing has become an addiction that is quickly spiraling to a breakdown. Many of those vested in the system, both public and private leaders, will try to convince us to ignore this cycle. They will describe such evident pattern of incidents as "mere anomalies," portray private firms outside the chain of command as somehow "part of the total force," or claim that "We have no other choice." These are the denials of pushers, enablers, and addicts. Only an open and honest intervention, a step back from the precipice of over-outsourcing, can break us out of the vicious cycle into which we have locked our national security.

AUTHOR'S NOTE

Life has its odd way of coming full circle. It was ten years ago this very week that I first revealed to the security studies program I was attending that I planned on doing my dissertation on private military firms. A senior professor thereupon informed me that I would do well to quit graduate school and instead “Go become a screenwriter in Hollywood,” for thinking to waste his time even to speak of such fiction. As the news broke this week of shootings involving a contractor of the Blackwater firm, just one of the more than 160,000 private military contractors deployed in Iraq, I wonder how this professor squares his past idea of fiction with our new reality (Even more odd, the recent Blackwater episode in Iraq happened the same day that a fictional version of the firm, amusingly called “Blackriver,” was introduced as the villain of the new TV cop drama *K-Ville*).

In many ways, perhaps he was right. From its understandable origins in the privatization revolution of the 1980s and the downsizing of the military after the Cold War’s end, the private military industry has morphed into something else. It is clear that the trend has gone too far, too fast.

I had planned to move away from writing on this issue, to focus my research on other aspects of changes in war. But after this week’s affair, I felt compelled to write this report. It is not merely due to the Hollywood-like episodes of private military companies operating with impunity from the law, while at the same time hawking baseball caps on their websites. Rather, it is that private action has truly begun to have terrible public consequences, harming Ameri-

ca’s standing in the world and undermining the efforts of our uniformed troops in the field.

The views expressed in this report represent a decade’s worth of research on the topic and literally hundreds of interviews and discussions over this time with everyone from private military firm employees to active and retired soldiers, extending from the level of 4 star generals down to the specialist. However, the conclusions are my own. I am not paid either to lobby for the industry or paid to attack it.

I fully anticipate that the conclusions I have come to will draw great controversy, and perhaps even more. Writing on the private military industry has proven to be quite educational as to how private interests often try to influence public policy research. Over the last years, I have received multiple offers to profit by joining firm boards or to consult for investors interested in the industry. I declined all of these in order to maintain my independence. In turn, I have also received two death threats, three assault threats, and two threats of lawsuits from companies. Notably, all of these received their revenue from the U.S. taxpayer; so in a sense, I was going after myself.

So, in discussing the context that surrounds the policy decisions made about the private military industry, you may think that I would invoke the memory of Dwight Eisenhower, who is likely spinning over in his grave at this embodiment of a new military industrial complex. But I actually think that the guidance of the very first American conservatives is more helpful.

The authors of the *Federalist Papers*, John Jay, Alexander Hamilton, and James Madison, warned about the role of any private interests not responsive to the general interests of a broadly defined citizenry. The Founders' plan for government in the United States sought to make officials responsive to the general interests of this citizenry. In turn, it also set up internal controls designed to check the ambitions of those holding power within government. When private interests move into the public realm and the airing of

public views on public policy are stifled, government makes policies that do not match the public interest. I hope our present day policymakers will keep this in mind as they weigh the issues involved in this new industry. It is too important to see through partisan lens, and too important to be clouded by private interests. It is a matter of national security.

P.W. Singer
September 21, 2007

CAN'T WIN WITH 'EM, CAN'T WAR WITHOUT 'EM: PRIVATE MILITARY CONTRACTORS AND COUNTERINSURGENCY

On September 16, 2007, a convoy of Blackwater contractors, who were guarding State Department employees, entered a crowded square near the Mansour district in Baghdad. It is at this point that the versions of what happened next diverge. Employees from the firm claim that they were attacked by gunmen and responded within the rules of engagement, fighting their way out of the square after one of their vehicles was disabled. By contrast, Iraqi police and witnesses report that the contractors opened fire first, “shooting randomly” at a small car, carrying a couple with their child, that did not get out of their way as traffic slowed.¹ At some point in the 20 minute gunfight that followed, Iraqi police and Iraqi army forces, who were in watchtowers above the square, also began firing. They were soon reportedly joined by additional forces, as both Iraqi security and Blackwater quick reaction forces responded to the battle.

The only thing that is agreed upon is the consequences: a reported 20 Iraqi civilians were killed (including the couple and their child, who was subsequently burned to the mother’s body after the car caught fire) and the Iraqi government and populace exploded with anger. Iraqi Prime Minister Maliki blamed the killings on the company’s employees and described it as a “crime.” The Iraqi Interior Ministry then announced it was pulling the license of the company to operate in Iraq and would prosecute any foreign contractors found to have been involved in the killings. There were only two problems. The company in charge of guarding U.S. officials in Iraq did not actu-

ally have a license with the Ministry. Secondly, confusion over the legal status of the contractors led many to conclude that they were exempt from Iraqi law, because of a rule left over from Coalition Provisional Authority, an organization which had dissolved itself over 2 years earlier.

As this mess played out, observers and analysts focused on the manifold issues that surround the episode and the use of private military contractors, raising everything from the lack of oversight and management to the vacuum in actual law, which had turned contractor “rules” of engagement into mere guidelines with no actual consequences. State Department officials, in turn, plead that they had no other option but to keep using the contractors, given their lack of Diplomatic Security forces (conveniently ignoring that the reason for this was that they had recently awarded a multi-billion contract to hollow out their Diplomatic Security corps and hand over the task to a consortium of private firms led by Blackwater). As Congress held hearings, the episode linked back to a previous debate over whether contracting saved money, or if politically connected companies were abusing the system.

An underlying question, though, was largely ignored: whether it made sense to have civilians in such an inherently governmental role in the first place. Regardless of whether the contractors were right or wrong in the shooting, or even whether there was proper jurisdiction to ensure accountability or not, there was a crucial problem.

¹ Sabrina Tavernise and James Glanz, “Iraqi Report Says Blackwater Guards Fired First,” *New York Times*, September 19, 2007.

The use of private military contractors appears to have harmed, rather than helped the counterinsurgency efforts of the U.S. mission in Iraq. Even worse, it has created a dependency syndrome on the private marketplace that not creates dangerous vulnerabilities, but shows all the signs of the last downward spiral of an addiction. If we judge by what has happened in Iraq, when it comes to private military contractors and counterinsurgency, the U.S. is locked in a vicious cycle. It can't win with them, but can't go to war without them.

THE ENABLER

When the U.S. military shifted to an all-volunteer, professional force in the wake of the Vietnam War, military leaders set up a series of organization “trip-wires” to preserve the tie between the nation’s foreign policy decisions and local communities. Led by then Army Chief of Staff General Creighton Abrams (1972-74), they wanted to ensure that the military would not go to war without the sufficient backing and involvement of the nation.² Much like a call-center moved to India, this “Abrams Doctrine” has been outsourced.

The use of contractors in Iraq is unprecedented in both its size and scope. Estimates of the number of contract personnel in Iraq vary widely. In 2006, the United States Central Command estimated the number to be around 100,000 (that it turned out to be such a perfectly round figure indicated that the estimate was actually what researchers call a “WAG,” short for “wild ass guess”). In 2007, an internal Department of Defense census on the industry found almost 180,000 private contractors were under employment in Iraq (compared to 160,000 total U.S. troops at the time, even after the “surge”). However, even this figure was thought by officials to be a low count, since a number of the biggest companies, as well as any firms employed by the Department of State or other agencies or NGOs, were not included in the census.³ These contractors come from at least 30 different countries, ranging from local Iraqi na-

tionals and Americans to Brits, Guatemalans, and Ugandans.

What matters is not merely the numbers, but the tasks that contractors carry out. In addition to war-gaming and field training U.S. troops before the invasion, private military personnel handled logistics and support during the war’s buildup. The massive U.S. complex at Camp Doha in Kuwait, which served as the launch pad for the invasion, was not only built by a private military firm but also operated and guarded by one. During the invasion, contractors maintained and loaded many of the most sophisticated U.S. weapons systems, such as B-2 stealth bombers and Apache helicopters. They even helped operate combat systems such as the Army’s Patriot missile batteries and the Navy’s Aegis missile-defense system.

Private military firms—ranging from well-established companies such as Vinnell and MPRI to startups such as the South African firm Erinys International—have played an even greater role in the post invasion occupation. Halliburton’s Kellogg, Brown & Root division, recently spun off into its own firm, currently runs the logistics backbone of the force, doing everything from running military base food halls to moving fuel and ammunition. Its contract has garnered the firm \$20.1 billion and helped the firm report a \$2.7 billion profit last year. To put this into context, the amount paid to Halliburton-KBR for just that period is roughly 3 times what the U.S. government paid to fight the entire 1991 Persian Gulf War. When putting other wars into current dollar amounts, the U.S. government paid Halliburton about \$7 billion *more* than it cost the United States to fight the American Revolution, the War of 1812, the Mexican-American War, and the Spanish American War *combined* (interestingly, the \$2.2 billion that the U.S. Army has claimed Halliburton overcharged or failed to document is almost double the amount that it cost the U.S. to fight the Mexican-American War in current dollars; a war that won Arizona, New

² Timothy Sullivan, *The Abrams Doctrine: Is It Enduring and Viable in the 21st Century*, US Army War College Research Paper, 2005.

³ Christian Miller, “Private Contractors Outnumber U.S. Troops in Iraq,” *Los Angeles Times*, July 4, 2007, 1.

Mexico, and California for the U.S.).⁴ Other firms are helping to train local forces, including the new Iraqi army and national police.

And finally, there is the sector of firms, such as Blackwater, that has provided armed roles within the battle space. These firms do everything from help guard facilities and bases to escort high value individuals, as well as convoys, arguably the most dangerous job in all Iraq. Such firms are frequently described as “private security” or “bodyguards,” but they are a far cry from the rent a cops at the local mall or bodyguards for celebrities that the term is taken to mean. They use military training and weaponry, to carry out missions integral to the mission’s success, in the midst of a combat zone, against adversaries who are fellow combatants, as opposed to parking lot muggers or paparazzi stalkers of Angelina Jolie. In 2006, the Director of the Private Security Company Association of Iraq estimated that 181 of such “private security companies” were working in Iraq with “just over 48,000 employees.”

To put it in another way, the war in Iraq would not be possible without private military contractors. This is critically important. Contrary to conspiracy theories, the private military industry is not the so-called “decider,” plotting out wars behind the scenes like *Manchurian Global*. But, it has become the ultimate enabler, allowing operations to happen that might be otherwise politically impossible. The private military industry has given a new option that allows the executive branch to decide, and the legislative branch to authorize and fund, foreign policy commitments that make an end run around the Abrams Doctrine.

It is sometimes easier to understand this concept by looking at the issue in reverse. If a core problem that U.S. forces faced in the operation in Iraq has been an insufficient number of troops, it is not that the U.S. had no other choices, other than to use contractors to solve it. Rather, it is that each of them was considered politically undesirable.

One answer to the problem of insufficient forces would have been for the Executive Branch to send more regular forces, beyond the original 135,000 planned. However, this would have involved publicly admitting that those involved in the planning, most particularly Secretary Rumsfeld, were wrong in their slam of critics like Army General Eric Shinseki, who warned that an occupation would mean greater requirements. Plus, such an expanded force would have been onerous on the regular force, creating even more tradeoffs with the war in Afghanistan, as well as broader global commitments.

Another option would have been a full-scale call-up of the National Guard and Reserves, as originally envisioned for such major wars in the Abrams Doctrine. However, to do so would have prompted massive outcry amongst the public (as now the war’s effect would have been felt deeper at home), exactly the last thing leaders in the Executive branch or Congress wanted as they headed into what was a tight 2004 campaign.

Some proposed persuading other allies to send their troops in, such as NATO allies and other interested members of the UN had sent troops to Bosnia and Kosovo, to help spread the burden. However, this would have involved tough compromises, such as granting UN or NATO command of the forces in Iraq or delaying the invasion, in which the Administration simply had no interest. This was the war that “was going to pay for itself” as leaders like then Deputy Secretary of Defense Paul Wolfowitz infamously described in the run up to the invasion, and to share in the operation was to share in the spoils. Plus, much of the world vehemently opposed, so the likelihood of NATO allies or the UN sending the needed number of troops was always minimal.

By comparison, the private military industry was an answer to these problems, and importantly an answer that had not existed for policymakers in the past. It offered the potential backstop of additional forces, but with no one having to lose any political capital.

⁴ Matt Kelley, “Largest Iraq Contract Rife With Errors,” *USA Today*, July 17, 2007.

Plus, the generals could avoid the career risk of asking for more troops. That is, there was no outcry whenever contractors were called up and deployed, or even lost. If the gradual death toll among American troops threatened to slowly wear down public support, contractor casualties were not counted in official death tolls and had no impact on these ratings. By one count, as of July 2007, over 1,000 contractors have been killed in Iraq, and another 13,000 wounded (again the data is patchy here, with the only reliable source being insurance claims made by contractors' employers and then reported to the U.S. Department of Labor).⁵ Since the "Surge" started in January 2007 (this was the second wave of increased troop deployments, focused on the civil war), these numbers have accelerated; contractors have been killed at a rate of 9 a week. These figures mean that the private military industry has suffered more losses in Iraq than the rest of the coalition of allied nations combined. The losses are also far more than any single U.S. Army division has experienced.

Hence, such private losses were looked at by policy-makers as almost a "positive externality," to use an economic term. The public usually didn't even hear about contractor losses, and when they did, they had far less blowback on our government. Notice the irony: for all the focus on contractors as a private market solution, the costs that they hope to save were political in nature.

And, when we weigh the devastating consequences that the Iraq war has had on America's broader security and standing in the world, this enabling effect of the private military industry maybe its ultimate cost. The underlying premise of the Abrams Doctrine was that, if a military operation could not garner public support of the level needed to involve the full nation, then maybe it shouldn't happen in the first place. But that debate over the ultimate costs of Iraq is one for the historians to weigh now.

What is clear, however, is that the enabling effect of the industry is not simply in allowing the operation to occur, but also in how it reinforces our worst tendencies in war.

THE PUSHERS

The lobbyists of private military contractors like to discuss how the U.S. mission in Iraq is the best supplied military operation in history. Doug Brooks of the International Peace Operations Association (an industry trade group) even adds, "The fact that troops are going to Iraq right now and actually, in 120 degree weather, putting on weight, kind of shows we are doing too much to support."⁶

Brooks is correct on many counts. The operation is one of the most lavishly supported ever and most of that has been by contractors to whom we have outsourced almost all the logistics, as well as the protection for the privatized logistics. That process may also have yielded one of the most inefficient. According to testimony before the House Committee on Oversight and Government and Reform, the Defense Contract Audit Agency has identified more than *\$10 billion* in unsupported or questionable costs from battlefield contractors – and it has barely scratched the surface.

Such corruption doesn't just represent lost funds; it represents lost opportunities for what those funds could have been used on to actually support the mission, everything from jobs programs to get would-be insurgents off the streets to flak vests and up-armored vehicles for our troops. The situation got so bad that the Special Inspector General for Iraq Reconstruction (SIGIR) dubbed corruption as the "second insurgency" in Iraq.⁷

But even if there were no lost funds, there is still an underlying problem. While no one would argue that our soldiers do not deserve the utmost, contractors appear to have used this opening to drive a gold-plat-

⁵ Bernd Debusmann, "In Outsourced U.S. Wars, Contractor Deaths Top 1,000," *Reuters*, July 3, 2007.

⁶ As quoted on *To The Point*, IRB, September 19, 2007.

⁷ Matt Kelley, "Record Cases in Contract Probe: Crackdown Aims at Second Insurgency," *USA Today*, August 15, 2007.

ed train through (or, in the parlance of KBR truckers, an opportunity to ship “sailboat fuel,” that is charge for nothing.).⁸ Turning logistics and operations into a for-profit endeavor helped feed the “Green Zone” mentality problem of sprawling bases, which runs counter everything General Petraeus pointed to as necessary to winning a counterinsurgency in the new Army/USMC manual he helped write.⁹

The whole outsourcing of logistics (where the Pakistani subcontractors get paid 50 cents an hour off of a \$20.1 billion contract) led to a ‘bigger is better’ Green Zone approach to supporting operations. Retired Marine Colonel and expert on “4th generation” war T.X. Hammes is pointed on this. “We’ve had an assumption that contracting is inherently a good thing. That was a going-in position at the Pentagon as near as I could tell, and it is for some things. We get a little carried away, and then we gold-plate. For instance, in the Green Zone, we always had three different main courses, three vegetables, three kinds of ice cream, dessert -- way beyond any necessity, but they could do it, so they did, because it’s just money.”¹⁰

Basically, the bigger the bases they build and operate, the more fast food franchises they open, the more salsa dance lessons they offer, the more money that the firm makes. At the same time, it is also able to wrap itself in the flag. But it comes at a price to the overall counterinsurgency effort. Bigger bases may yield more money for stock-holders, but they disconnect a force from the local populace and send a message of a long-term occupation, both major negatives in a counterinsurgency effort. Moreover, more convoys may yield more money, but they also mean

more convoys on the roads angering the Iraqis, more potential targets for insurgents, and, finally, a diversion of forces away from prosecuting the war on our terms to doing route security on the enemy’s terms. As Hammes continues, “It’s misguided luxury ... Somebody’s risking their life to deliver that luxury. Maybe you could tone down the luxury, put fewer vehicles on the road. Again, fewer vehicles on the road creates less tension with the locals, because they get tired of these high-speed convoys running them off the road.”¹¹

THE HATERS

There is an interesting irony at play with the private military industry. For all the hubbub over the recent Blackwater incident, the American public remains largely unaware of the industry. While private forces make up over 50% of the overall operation on Iraq, they have been mentioned in only a quarter of one percent of all American media stories on Iraq.¹²

Yet, at the same time, contractors are one of the most visible and hated aspects of the American presence in Iraq. Um Omar, a Baghdad housewife, describes of her impressions of Blackwater. “They seal off the roads and drive on the wrong side. They simply kill.”¹³ A traffic policeman at Al-Wathba square in central Baghdad concurs. “They are impolite and do not respect people, they bump other people’s cars to frighten them and shout at anyone who approaches them... Two weeks ago, guards of a convoy opened fire randomly that led to the killing of two policemen... I swear they are Mossad [referring the Israeli spy service which is a sort-of catch-all for anything evil in the Arab world].”¹⁴

⁸ Kathleen Schalch, “KBR Drivers Say They Risked Their Lives to Pad Profits.” in *Morning Edition*, National Public Radio, broadcast on June 8 (2004).

⁹ Field Manual 3-24, *Counterinsurgency*, June 2006, available at <http://www.fas.org/irp/doddir/army/fm3-24fd.pdf>

¹⁰ T.X. Hammes as quoted on PBS Frontline, *Private Warriors* (2005 [cited September 19 2007]); available from <http://www.pbs.org/wgbh/pages/frontline/shows/warriors/view/>.

¹¹ Ibid.

¹² Habib Moody, “Soldiers for Rent: The Private Contractors Fighting America’s Wars.” *The New Atlantis*, Summer (2007), <http://www.thenewatlantis.com/archive/17/soa/TNA17-StateOfTheArt-SoldiersForRent.pdf>. Note: When I raised this point with two network news correspondents, both agreed, but defended the general media’s lack of reporting, by saying it was hard to get the good interviews. This is a double standard that has clearly harmed the media’s role in informing public debate and policy. Indeed, if the lack of good interviews actually determined whether a story made the news or not, we would have no stories about either Osama bin Laden, Anna Nicole Smith, or Britney Spears.

¹³ Nafia Abdul Jabbar and Salam Faraj, “Iraqis Round on Blackwater ‘Dogs’ After Shooting.” *Agence France Press*, September 18, 2007.

¹⁴ Ibid.

An important aspect to note is that Iraqi civilians do not disconnect the acts of the private military contractors from the overall public military effort, just because they are outside the chain of command. Rather, the impression they leave is the reverse. As one Iraqi soldier explains, “We cannot do anything because they occupy our country and they represent U.S. and Israeli forces. Even the Iraqi government cannot stop their barbarous acts.”¹⁵

The point here is not that all contractors are “cow-boys,” “unprofessional,” or “killers,” as Blackwater and other contractors are often described. Rather, most are highly talented, ex-soldiers. However, their private mission is different from the overall public operation. Those, for example, doing escort duty are going to be judged by their bosses solely on whether they get their client from point A to B, not whether they win Iraqi hearts and minds along the way. Ann Exline Starr, a former Coalition Provisional Authority adviser, described the difference between when she traveled with a military escort and with guards from Blackwater and another State Department-contracted security firm, DynCorp. While the soldiers kept her safe, they also did such things as playing cards and drinking tea with local Iraqis. The contractors, by contrast, focused only on the contract. “What they told me was, ‘Our mission is to protect the principal at all costs. If that means pissing off the Iraqis, too bad.’”¹⁶

This protection first and last mentality has led to many common operating practices that clearly enrage locals. In an effort to keep potential threats away, contractors drive convoys up the wrong side of the road, ram civilian vehicles, toss smoke bombs, and fire weaponry as warnings, all as standard practices. Journalist Robert Young Pelton described his month spent embedded with Blackwater contractors in Baghdad. “They’re famous for being very aggressive. They use their machine guns like car horns.”¹⁷

Viewed through the corporate lens, where a premium is placed on protecting assets above everything else, this behavior is certainly understandable. But it undermines the broader operation. As far back as 2005, U.S. officers in Iraq like Colonel Hammes were worried, “The problem is in protecting the principal they had to be very aggressive, and each time they went out they had to offend locals, forcing them to the side of the road, being overpowering and intimidating, at times running vehicles off the road, making enemies each time they went out. So they were actually getting our contract exactly as we asked them to and at the same time hurting our counterinsurgency effort.”¹⁸

A real world example illustrates how this process plays out. An Iraqi is driving in Baghdad, on his way to work. A convoy of black-tinted SUVs comes down the highway at him, driving in his lane, but in the wrong direction. They are honking their horns at the oncoming traffic and firing machine gun bursts into the road in front of any vehicle that gets too close. He veers to the side of the road. As the SUVs drive by, Western-looking men in sunglasses point machine guns at him.

Over the course of the day, that Iraqi civilian might tell X people about how “The Americans almost killed me today, and all I was doing was trying to get to work.” Y is the number of other people that convoy ran off the road on its run that day. Z is the number of convoys in Iraq that day. Multiply X times Y times Z times 365 and you have the mathematical equation of how to lose a counterinsurgency within a year (And that assumes that he doesn’t tell his mom or wife about the incident, upon which they likely to tell everyone in the neighborhood about how the Americans almost killed their boy/husband, multiplying the equation further).

¹⁵ Ibid.

¹⁶ Steve Fainaru, “Where Military Rules Don’t Apply,” *washingtonpost.com*, September 20 (2007), http://www.washingtonpost.com/wp-dyn/content/article/2007/09/19/AR2007091902503_pf.html.

¹⁷ Robert H. Reid, “Blackwater Loses Security License in Iraq,” *Associated Press*, September 18, 2007.

¹⁸ PBS Frontline, *Private Warriors*.

It is for this reason that many military experts have grown worried about the backlash that contractors cause unintentionally and how it is hurting the cause. U.S. Army Colonel Peter Mansoor is one of the most influential military thinkers on counterinsurgency. Well before the latest Blackwater episode in January of 2007, he told *Jane's Defense Weekly* that the US military needs to take "...a real hard look at security contractors on future battlefields and figure out a way to get a handle on them so that they can be better integrated - if we're going to allow them to be used in the first place...if they push traffic off the roads or if they shoot up a car that looks suspicious, whatever it may be, they may be operating within their contract -to the detriment of the mission, which is to bring the people over to your side. I would much rather see basically all armed entities in a counterinsurgency operation fall under a military chain of command."¹⁹

This discussion only has included occurrences that go on in the regular course of contractor operations, where no one is actually harmed and the rules of engagement (or, rather guidelines, as there has been no legal consequence for breaking them) are actually followed. Unfortunately, contractors have also been involved in a pattern of abuses that go well beyond the recent Blackwater incident.

For example, it was reported that 100% of the translators and up to 50% of the interrogators at the Abu Ghraib prison were private contractors from the Titan and CACI firms respectively. The U.S. Army found that contractors were involved in 36% of the proven abuse incidents from 2003-2004 and identified 6 particular employees as being culpable in the abuses.²⁰ However, while the enlisted U.S. Army soldiers involved in the Abu Ghraib abuse were properly court martialed for their crimes, three years later,

not one of the private contractors named in the U.S. Army investigation reports has been charged, prosecuted, or punished.

In another incident in 2005, armed contractors from the Zapata firm were detained by U.S. forces, who claimed they saw the private soldiers indiscriminately firing not only at Iraqi civilians, but also US Marines. Again, they were not charged, as the legal issues could not be squared.²¹

Other cases in 2006 included the Aegis "trophy video," in which contractors set video of them shooting at civilians to Elvis's song "Runaway Train," and put it on the Internet, and the alleged joyride shootings of Iraqi civilians by a Triple Canopy supervisor (which became the subject of a lawsuit after the two employees, who claim to have witnessed the shootings, lost their jobs.²²

These are just a few of the many examples to have made the press. There are reportedly many others that did not. As these examples show, Blackwater is certainly not the only company to be accused of incidents that reverberate negatively on the efforts to win "hearts and minds" of the Iraqis.

However, Blackwater has earned a special reputation among Iraqis. Much of this stems from the highly visible role it has played in escorting U.S. officials, but Iraqi government officials claim that there have been at least 7 incidents of civilian harm in which the company has been involved. The most notable that have been reported in the press was on Christmas Eve 2006, when a Blackwater employee allegedly got drunk while inside the Green Zone in Baghdad and got in an argument with a guard of the Iraqi Vice President. He then shot the Iraqi dead. The employee

¹⁹ Nathan Hodge, "Revised US Law Spotlights Role of Contractors on Battlefield," *Jane's Defence Weekly*, January 10 2007, 10.

²⁰ Major General George Fay and Lieutenant General Anthony Jones, "Investigation of Intelligence Activities at Abu Ghraib," (US Army, 2004). Available at <http://f1.findlaw.com/news.findlaw.com/hdocs/docs/dod/fay82504rpt.pdf>

²¹ David Phinney, "Marines Jail Contractors in Iraq," *CorpWatch.com*, June 7 (2005), <http://www.corpwatch.org/article.php?id=12349>.

²² Steve Fainaru and Alec Klein, "In Iraq, a Private Realm of Intelligence-Gathering," *Washington Post*, July 1, 2007, Tom Jackman, "U.S. Contractor Fired On Iraqi Vehicles for Sport, Suit Alleges," *Washington Post*, November 17, 2006, Robert Young Pelton, "Blackwater Contractor Kills Vice President's Guard," *Iraqslugger.com*, February 8 (2007), iraqslugger.com, Sean Raymont, "Trophy Video Exposes Private Security Contractors Shooting Up Iraqi Drivers," *Telegraph*, November 26, 2005.

was quickly flown out of the country and, 9 months later, has not been charged with any crime. Imagine the same thing happening in the U.S., an Iraqi embassy guard, drunk at a Christmas party in D.C., shooting a Secret Service agent guarding Vice President Cheney, and you can see some potential for how the firm's Christmas tidings were not a happy one for U.S. efforts at winning hearts and minds.

In May 2007, there was another two reported shootings of Iraqi civilians by the Blackwater contractors, including of an Interior Ministry employee, which led to an armed standoff between the firm and Iraqi police. Thus, many felt the great tension between the firm and the locals would soon erupt. In the weeks before the September killings, Matthew Degn, a senior American civilian adviser to the Interior Ministry's intelligence directorate, described the ministry as "a powder keg" of anger at Blackwater.²³

As a result of this pattern, U.S. military officers frequently expressed their frustrations with sharing the battlefield with such private forces operating under their own rules and agendas, and worry about the consequences for their own operations. As far back as 2005, for example, Brigadier General Karl Horst, deputy commander of the US 3rd Infantry Division (responsible for security in the Baghdad area at the time) tried to keep track of contractor shootings in his sector. Over the course of two months, he found twelve shootings that resulted in at least six Iraqi civilian deaths and three more wounded. Horst tellingly put it, "These guys run loose in this country and do stupid stuff. There's no authority over them, so you can't come down on them hard when they escalate force. They shoot people, and someone else has to deal with the aftermath."²⁴

THE BLAME GAME

From their very first hire in places like West Africa, Colombia and the Balkans in the 1990s, private

military contractors have been utilized because they appear to be a convenient way to shift or avoid the direct political costs of an operation. By using private means, public ends can be gained. But instead of outsourcing the costs, the opposite seems to be happening now.

That "someone else" referenced by Brigadier General Horst as being stuck with the negative effects of the contractors is not the company or its employees. Rather, it is the U.S. counterinsurgency effort in places like Iraq and beyond. As one report described of the consequences of contractor behavior, "In a war where perceptions are paramount, the effect is poisonous."²⁵

Several weeks before the most recent Blackwater incident, an Iraqi official explained how contractors' actions were reverberating upon U.S. military forces engaged in the counterinsurgency. "They are part of the reason for all the hatred that is directed at Americans, because people don't know them as Blackwater, they know them only as Americans. They are planting hatred, because of these irresponsible acts."²⁶

The official's view is echoed by many. Jack Holly is a retired Marine colonel who, as director of logistics for the U.S. Army Corps of Engineers, has worked with several firms in Iraq. As an example of the costs to key efforts, he described how Iraqi employees of the national rail system were so intimidated by Blackwater escorts that they refused to meet with State Department officials there to help them with the reconstruction effort. Of the Blackwater contractors he noted, "Their aggressive attitude is not what you would say is trying to mitigate disagreements between two societies."²⁷

Whether these perceptions are accurate or not, it is clear that they help undermine the very justification for the U.S. effort in Iraq. As an Interior Ministry

²³ Fainaru, "Where Military Rules Don't Apply."

²⁴ As quoted in "Contractors in Spotlight as Shootings Add Up," *Charlotte Observer*, September 11, 2005.

²⁵ Spencer Ackerman, "Today's Must Read." *TPM*, September 19 (2007), <http://www.tpmuckraker.com/archives/004229.php>.

²⁶ Fainaru, "Where Military Rules Don't Apply."

²⁷ *Ibid.*

official said of the Blackwater contractors hired by the U.S. “They consider Iraqis like animals, although actually I think they may have more respect for animals. We have seen what they do in the streets. When they’re not shooting, they’re throwing water bottles at people and calling them names. If you are terrifying a child or an elderly woman, or you are killing an innocent civilian who is riding in his car, isn’t that terrorism?”²⁸

This statement is by an official ostensibly working with the U.S. Even worse, is that incidents of contractor abuse have given America’s foes yet another weapon in the war of information so critical to winning in a counterinsurgency. Much like the Abu Ghraib affair, the episode in which the civilians were killed by Blackwater employees may have been an anomaly. But it proved to be a perfect fact around which adversaries could wrap their wider propaganda. For example, the same week that the Blackwater shooting incident occurred, radical Shia leader Muqtada al Sadr was planning the withdrawal of his coalition from the government. Instead of having to justify the act, which potentially could collapse the government and plunge the nation into civil war, he was able instead to focus his propaganda and recruiting efforts on the Blackwater episode, describing it as “a cowardly attack committed by the so-called security company against our people without any justification.” As with others, he was clear to blame not merely the firm, but the wider American policy, describing how the firm had been allowed to recruit “criminals and those who have left American jails.”²⁹ That this part is not truthful misses the point; the episode gave the other side a factual point on which to leverage their wider propaganda operations.

For a private company, negative press from shooting civilians is, as comedian Stephen Colbert noted, “merely an issue of brand management” (Colbert suggested that Blackwater’s main problem was “hav-

ing a name that is cartoonishly evil” and that it just change the logo).³⁰ The challenge for a government locked within a global battle is far different.

The effort in Iraq is just one theater within a larger effort against extremist forces, in which the “war of ideas” is the critical battleground. The global war on terrorism is not a traditional military conflict made up of set-piece battles, but rather made up of a series of small wars and insurgencies in places ranging from Iraq and Afghanistan to Pakistan and Egypt, where the U.S. must sway a broader population from hostility to support if it ever wants to oust terror cells and shutdown recruiting pipelines. As the newly revised foreword to the famous U.S. Marine Corps *Small Wars* manual notes, “Small wars are battles of ideas and battles for the perceptions and attitudes of target populations.”³¹ Within these wars, it is non-kinetic tools (as opposed to fielded weaponry) that make up “...the fire and maneuvers of small wars. They frequently are the main effort simply because of the criticality of the functions they perform.”³²

Unfortunately, here again, contractors have proven to be a drag on efforts to explain and justify the already highly unpopular U.S. effort in Iraq. As recently congressional testimony described “Iraqis do not differentiate between armed security contractors and US soldiers. In other words, security contractors are America’s public diplomats— and yet these same contractors are not held to same oversight or standards of accountability as our soldiers. We may try to distance ourselves by the actions of the contractors, thinking they provide convenient temporary manpower whose deaths won’t be marked by a flag draped coffin coming through Dover, but that only plays in the United States. Overseas, where the public opinion really matters in the struggle for minds and will in the insurgency, the contractors are the U.S. and are directly involved in the mission.”³³

²⁸ Ibid.

²⁹ Agencies, “Sadr Wants ‘Criminal’ Security Firms Out.” *Gulf News*, September 18 (2007), <http://www.gulfnews.com/region/Iraq/10154504.html>.

³⁰ *The Colbert Report*, broadcast on Comedy Central, September 19, 2007.

³¹ Marine Corps Combat Development Command, *Small Wars/21st Century* (Quantico, VA: 2005), 79.

³² Ibid.

³³ Nick Bicanic, Testimony to the Senate Democratic Policy Committee, September 21, 2007.

The Blackwater episode resonated negatively not merely inside Iraq, but throughout the Muslim world. Every single media source led with the episode in the days that followed, focusing in on how the US could hire such “...arrogant trigger-happy guns for hire, mercenaries by any other name.” as UAE based *Gulf News* put it.³⁴ The *Al Jazeera* satellite news channel reported on the US hired contractors as “An army that seeks fame, fortune, and thrill, away from all considerations and ethics of military honour... The employees are known for their roughness. They are famous for shooting indiscriminately at vehicles or pedestrians who get close to their convoys.”³⁵ In the leading newspaper *Al-Sharq Al-Awsat*, Fahmy Howeydi, one of the most influential commentators in the entire Arab world, compared Blackwater “mercenaries” to al-Qa-eda, coming to Iraq’s chaos to seek their fortunes. Even *The Daily Star*, which is a regional English-language newspaper considered the most moderate voice in the region, wrote how “At least irregular formations like the Mehdi Army [Sadr’s militia] can plausibly claim to be defending their communities. No foreign mercenary can plead similar motivation, so all of them should go.”³⁶

Ironically, the incident occurred at the very same time that Secretary of State Rice was in the region at a conference, hoping to jump start the Arab-Israeli peace process, an effort that many think is key to sucking the poison out of U.S.-Muslim world relations. Instead of a public diplomacy coup for the U.S., the regional press instead focused on what the leading Arabic newspaper *al Hayat* titled as “Blackwater... Black Conference.” The paper described Rice’s effort as “a meaningless affair, with the exception of Washington’s need to hide the failure of its project in Iraq and the stench of scandals there, which have begun to bother the occupation - the last one being the killing of civilians by the Blackwater mercenaries.”³⁷

Indeed, the only newspaper in the region that didn’t blame the U.S. government for actions of the firm was one prominent paper that reported that the whole killing of civilians in Iraq by Blackwater was actually the work of Mossad (again, not really helping the effort either).

What is telling about this episode is not merely the reaction in the press, but also how the contractor responded after the news broke. At a time when America’s image was getting pummeled because of its employees’ actions, Blackwater shut down its website and declined all interviews. Then, nearly a day after the episode and with the Arab press roiling, its spokesperson in North Carolina issued a two paragraph statement via email, only targeted at a U.S. audience. It claimed that “The “civilians” reportedly fired upon by Blackwater professionals were in fact armed enemies.”³⁸ The firm then brought its website online, just without even this new statement uploaded, as if nothing had happened. It continued to not to take any press calls. You could however continue to buy Blackwater apparel, ranging from baseball caps to a baby onesie.

One could not help but feel sympathy for the public affairs officers at the embassy and the State Department, who as government officials had to continue to do their daily briefings. Left behind on the information war field of battle by Blackwater, the U.S. government officials did their best to explain and defend the company’s actions, while the firm went into ostrich mode.

THE DOUBLE WHAMMY

In a counterinsurgency, the outside force must persuade the local populace that it, and its allies, cares more about their interests, rights, and needs than the local adversary. As an outsider, this is an incredibly high bar to reach (which is why insurgencies are

³⁴ “Guns for Hire in Troubled Waters.” *Gulf News*, September 18 (2007), http://www.gulfnews.com/opinion/editorial_opinion/region/10154563.html.

³⁵ BBC Monitoring International Reports, “Al-Jazeera TV Highlights Blackwater Incident in Iraq,” September 18, 2007.

³⁶ “Enough Havoc: Send the ‘Dogs of War’ Home Where They Belong.” *Daily Star*, September 19 (2007), http://www.dailystar.com.lb/article.asp?edition_id=10&categ_id=17&article_id=85380.

³⁷ Zouheir Kseibati, “Blackwater... Black Conference.” *Al-Hayat*, September 20 (2007), <http://english.daralhayat.com/opinion/OPED/09-2007/Article-20070920-22b6e63c-c0a8-10ed-00c3-e8c4fa631af2/story.html>.

³⁸ Anne Tyrrell (Spokeswoman for Blackwater), “Statement by Blackwater on Sunday 16 September Incident”, Statement, September 17, 2007.

amongst the toughest conflict types to win, with weak actors frequently beating the strong). The outsiders are already suspect for being there in the first place, especially if they came in via invasion, and the insurgent group can always make nationalist appeals that the outsiders cannot. Thus, while the outside force may see itself as trying to aid the local populace, the latter may just see it as an occupation. And that is the death-knell for winning a war.

The challenge with contractors in a counterinsurgency setting is manifold. While they may not be part of the actual occupying force, they are still perceived as such. Even if the 160,000 plus contractors were all perfect angels, their mere presence adds to the number of outsiders and reinforces the local populace's impression that it is being occupied and overwhelmed. In an environment where unemployment is high, resentment also builds over the fact that outsiders are being brought in to do jobs that locals could do instead. Add in the pattern of abuses noted earlier, and the perceptions are even worse.

But perhaps the biggest bone of contention in Iraq is how the contractor force has begun to be seen as the ultimate example of a U.S. double standard towards Iraqis.

As has been noted by many commentators, the contractors in Iraq operate in a relative vacuum of oversight and management. One of the great challenges is that while the amount of contracting has boomed, the number of government contract officers (the "eyes and ears" of the government, who do monitoring and oversight) has shrunk. By one count, the number of Pentagon defense services contracts is up by 78% since the late 1990s, while the number of officials tasked with overseeing them is *down* by over 40%.³⁹ It is not surprising then that every one of the incidents where contractor abuse has been reported, a contracting officer was not present.

This problem is compounded by a legal ambiguity that surrounds private military contractors. On both the personal and the corporate level, there is a striking absence of regulation, oversight, and enforcement. Indeed, the owner and employees of a circus face more legal inspection and accountability than those of a private military firm.

Although private military firms and their employees are now integral parts of many military operations, they tend to fall through the cracks of legal codes, which sharply distinguish civilians from soldiers. Private military contractors are not exactly civilians, given that they often carry and use weapons, interrogate prisoners, load bombs, and fulfill other critical military roles. Yet they are not quite soldiers, either, in that they are not part of the service or in the chain of command, and might not even be of the same nationality. A number of laws might be applied to them, ranging from local laws to extra-territorial application of civilian law (the Military Extra-territorial Jurisdiction Act or MEJA), to even the Uniform Code of Military Justice (with the definition of civilians falling under the jurisdiction of military law expanded from times of declared war to contingency operations in Fall 2006).⁴⁰ The reality is that they are almost never actually used.

Within Iraq, this legal problem was further complicated by a little known memo known as Order 17. In one of the many decisions that will lead history to judge the Coalition Provisional Authority (CPA) as the worst governing organization since *Kid Nation*, two days before the CPA dissolved itself, it issued an order that could be interpreted as giving foreign contractors immunity from Iraqi law. While the legal standing of this order is questionable now (akin to your dad giving you a curfew the day before you go to college, the CPA's orders do not trump a sovereign state's laws), the interpretation of it held. Contractors saw themselves as above the law and the record seemed to back

³⁹ Renae Merle, "Government Short Of Contracting Officers: Officials Struggle to Keep Pace With Rapidly Increasing Defense Spending," *The Washington Post*, July 5, 2007, E8.

⁴⁰ Peter W. Singer, "Frequently Asked Questions on the UCMJ Change and its Applicability to Private Military Contractors." January 12 (2007), <http://www.brookings.edu/views/op-ed/psinger/20070112.htm>.

them up. In the 3 years that followed that CPA order, not one contractor operating in Iraq was prosecuted or convicted for any crime involving an Iraqi victim or any kind of conduct in the battle space.

Indeed, the only application of MEJA in the last four years in Iraq was against a KBR contractor, who had attempted to rape an American reservist while she was sleeping inside a trailer in the Green Zone. In turn, while the UCMJ legal change happened in Fall 2006, the Pentagon is yet to issue a guidance on how JAG officers should use it in the field. Its effect has been like a tree falling in the forest with no one there. Is real or not if no one hears it fall?

That the only time the law kicked in was when Americans were the victims certainly has not helped the counterinsurgency effort. Not only did this vacuum help impel contractors towards more aggressive actions, but it completely invalidated the message that American political advisors were trying to push to their Iraqi counterparts of the necessity of establishing “rule of law” as a way of ending the insurgency. Finally, the contractors’ seeming freedom from justice was considered a particular affront. “The Iraqis despised them, because they were untouchable,” said Matthew Degn, former senior American adviser to the Interior Ministry. “They were above the law.”⁴¹

The aspect of the lack of a license from the Iraqi government is another part of the double standards. While having a license is required of all contractors and indeed part of the terms of a Blackwater contract with the Department of Defense, it is telling that the State Department allowed the firm to guard its staff, while knowing it had no license.⁴² This clearly sends the wrong message, when that same staff was trying to reinforce to the Iraqis the need for political accountability at the very same time.

This impression of a double standard was not just one that rankled the senior Iraqi leadership, but also appears to have held on the public level. As Baghdad resident Halim Mashkooor tells, “We see the security firms ... doing whatever they want in the streets...If such a thing happened in America or Britain, would the American president or American citizens accept it?”⁴³

Insurgencies are battles of credibility. The only way that the outside force will be able to withdrawal is to build up the local government’s support in the community and its capacity to monopolize violence within its borders. The presence of a massive contracting force, seeming to be more powerful and outside the rule of law, shows the local populace the exact opposite. They both affront and simultaneous undermine the regime within local eyes. This is the description of Blackwater by one Iraqi, “They are more powerful than the government. No one can try them. Where is the government in this?”⁴⁴ That the Iraqi saying this is a soldier in the Iraqi Army encapsulates the problem.

The sense of double standard went beyond the legal vacuum for contractors and included several patterns of behavior that did not go unnoticed. Matthew Degn, the senior American civilian adviser to the Interior Ministry’s intelligence directorate, described how Blackwater’s armed Little Bird helicopters often buzzed the Interior Ministry’s roof, “almost like they were saying, ‘Look, we can fly anywhere we want.’”⁴⁵

On at least two separate occasions, private military contractors helped free Iraqi citizens from Iraqi jails. The most recent, as Defense Ministry spokesman Mohammed al-Askari told McClatchy Newspapers, was when an armed private contractor team helped former Iraqi Electricity Minister Ahyam al-Samarrai’s escape from a Green Zone jail in December 2006. Al-Samarrai was awaiting sentencing, having been

⁴¹ Fainaru, “Where Military Rules Don’t Apply.”

⁴² Mark Hemingway, “Blackwater Down,” *National Review* September 21 (2007).

⁴³ Charley Keyes, “Joint Commission to Examine Personal Security Details in Iraq,” *CNN.com*, September 20 (2007), http://www.cnn.com/2007/WORLD/meast/09/19/blackwater.iraq/index.html?eref=ib_world.

⁴⁴ Ackerman, “Today’s Must Read.”

⁴⁵ Fainaru, “Where Military Rules Don’t Apply.”

convicted of helping to embezzle as much \$2.5 billion intended for the rebuilding Iraq's electricity grid. Given that the average Baghdad resident still only has 6.2 hours of electricity a day, it is an issue the Iraqis are obviously touchy about.⁴⁶

As Yassin Majid, an adviser to Prime Minister al-Maliki, tells, the public aspect of Blackwater's most recent incident had compelled the government to act in this case, when it had been willing to ignore the others. "This incident embarrassed the government and also embarrassed the American government."⁴⁷ Such a statement is a powerful one in a culture where perceptions of honor and preserving one's dignity are supreme values. In another reported instance, Blackwater contractors threw water bottles at an Iraqi policeman with the rank of brigadier general. A senior Iraqi official still fumes over the deeply felt affront and the lack of any repercussions. "He represents the state and the law, and yet this happened."⁴⁸

The long-term worry of such double standards is that they align with many of the worst episodes of imperialism, where the citizens of the colonial power had a different legal standing than the locals. Most frequently, these were also the episodes during which the imperial power was ultimately tossed out, rather than maintaining good relations over the long-term. Indeed, in cases as diverse as the turn of the century Boxer rebellion in China to the Iranian revolution, episodes of double standards were what sparked larger conflagrations, as well as enduring hatred for outsiders.

Notable in this discussion of double standards is that nothing has been said of how it affects the U.S. soldiers actually fighting the counterinsurgency. Many officers note how the sense of a double standard for contractors is not helpful for morale. Not only are soldiers serving alongside contractors, who are being

paid more to serve in the same battle space, but they are also well aware that contractors are held to a different set of standards, or rather no standards.

THE WRONG DIRECTIONS

When the history books are written about the Iraq War, they will point to several critical turning points in U.S. efforts to beat back the insurgency that popped up after the invasion was complete and "Mission Accomplished" victory speeches were the order of the day. Certain to make the list are the battle of Fallujah, the revelation of prisoner abuse at Abu Ghraib, and now, most recently, the shootout in Baghdad that left as many as 20 civilians dead, the entire country seething, and U.S. operations at a standstill. What will be different about these books from histories of past wars is that the common denominator of each of these incidents was the private military industry.

In developing a counterinsurgency operation, the ideal is that a strategy is developed and then implemented. As General von Moltke famously said, "No plan survives first contact with the enemy" and it is expected that the enemy will react, and the plan will have to be adjusted. What is not expected is for a third force to cause the strategy to be jettisoned before it even has a chance to succeed.

The recent Blackwater incident is not the first time that decisions made by the firm have diverted American strategy and resources, taking the U.S. operation into unexpected, and unfortunate, directions. As retired Army officer and conservative columnist Ralph Peters notes, "Time and again, contractor shoot-'em-ups have either turned back the clock on local progress or triggered greater problems. Blackwater also gave us the cowboys who got lynched in downtown Fallujah in early 2004 - prompting an 'ordered-by-the-White-House' response that defined the entire year."⁴⁹

⁴⁶ Michael O'Hanlon and Jason Campbell, "The Iraq Index," (The Brookings Institution, 2007). September 17, p. 40. Available at <http://www3.brookings.edu/fp/saban/iraq/index.pdf>

⁴⁷ Robert H. Reid and Matthew Lee, "Diplomatic Convoys Curtailed in Iraq," *Associated Press*, September 18, 2007.

⁴⁸ Steve Fainaru, "U.S. Repeatedly Rebuffed Iraq On Blackwater Complaints," *Washington Post*, September 23, 2007, Pg. 18.

⁴⁹ Ralph Peters, "Lose the Mercenaries: 'Contractors' Wreck Iraq Progress," *New York Post*, September 20 (2007), http://www.nypost.com/seven/09202007/postopinion/opedcolumnists/lose_the_mercenaries.htm.

There are two notable aspects about the Falluja episode as it relates to counterinsurgency. First, the town had been restive since the invasion, but as former Marine Bing West describes in his masterful book *No True Glory: A Front Line Account of the Battle of Fallujah*, the Marine unit that deployed into the area in 2004 had a classic counterinsurgency plan to simultaneously build up local trust in the community and weed out insurgents.⁵⁰ As Major General Mattis said, they would “...demonstrate to the world there is ‘No Better Friend, No Worse Enemy’ than a U.S. Marine.” Unfortunately, on March 31, without any coordination with the local Marine unit, a Blackwater convoy drove through Fallujah, was ambushed, and the 4 contractors killed. The Marine unit based right outside of Fallujah didn’t even know that an attack had taken place until a reporter embedded at their base, passed on the news from a wire-service report that he downloaded off the web. So much for unity of effort in an age of outsourcing.

With images of the contractors’ bodies being mutilated making the press to eerie echoes of Somalia, the Marines were ordered to seize the entire city, despite their protests that it would worsen the situation rather than solve it. It was one ambush in a war full of them. But to the policymakers back in Washington, now feeling the pressure of the television news camera, some sort of action had to be taken.

The Marines moved into the city in force and a major battle broke out. It proved a disaster for the effort to win hearts and minds. With international press reporting more than 1,600 civilians killed (an exaggeration) and his Iraqi and British allies pressuring him, President Bush ordered a halt to operations. The town was handed over to a makeshift Iraqi brigade led by a former Republican Guard officer. The city soon devolved into a base of operations for Al Qaeda in Iraq, and the Marines were ordered back in November 2004. 95 U.S. Marines and soldiers were killed and almost 500 wounded in the street by street fight-

ing that followed. The Marines’ original strategy for winning at counterinsurgency never had a chance.

The second notable aspect of this incident is how the contractor convoy ended up there in the first place. A wrongful lawsuit against Blackwater, filed by the mothers of the 4 men killed, revealed that the employees had been sent on the mission without proper equipment, training, or preparation. While the contract had called for at least 6 men in armored vehicles and time for a route risk assessment and pre-trip planning, the firm had rushed together a team of 4 men who had never trained together and sent them out without armored vehicles and even good directions.⁵¹ It later turned out that the critical mission the men were being rushed into, which started the chain of events in this turning point, was escorting some kitchen equipment. Blackwater had just won the contract and reportedly wanted to impress the client, a Kuwaiti holding company, that it could get the job done. The equipment was never delivered and Fallujah instead become a rallying point for the wider insurgency.

Another unanticipated setback for U.S. foreign policy occurred again July of this year. One of the most critical aspects to Iraq’s short and long-term stability is the behavior of its neighbors. While the Kurdish north is one of the most secure parts of Iraq, its quasi-independence has Turkey, which has its own large Kurdish minority, especially tense. In July, the Turkish government revealed that its forces had captured U.S. weapons in the hands of the Kurdistan Worker’s Party (PKK), a Turkish rebel group that often uses north Iraq for a base of operations. The Turkish press exploded and the Turkish military discussed launching operations into Iraq, as well as used the episode to try to stifle civilian political rule inside Turkey.

The PKK is designated a “foreign terrorist organization” by the State Department, which bars U.S. citizens or those in U.S. jurisdictions from supporting

⁵⁰ Bing West, *No True Glory: A Frontline Account of the Battle for Fallujah* (New York: Bantam Books, 2005).

⁵¹ “Mothers Say Mistakes Led to Fallujah Tragedy.” *ABCNews.com*, April 7 (2005), <http://abcnews.go.com/Primetime/IraqCoverage/story?id=650816&page=1>.

the group in any way. The U.S. military and Justice Department launched an investigation into how U.S. weapons could get in the hands of the P.K.K., as the group has goals so contrary to U.S. strategy both within Iraq and beyond. Their investigations led them from Turkey and Iraq to North Carolina, home of the very same firm. Two Blackwater employees just recently pled guilty of “possession of stolen firearms that had been shipped in interstate or foreign commerce, and aided and abetted another in doing so” and are now reportedly cooperating with federal authorities.⁵² However, the damage to U.S. strategy has already been done. Steven Cook is a fellow at the Council on Foreign Relations and one of the leading experts on U.S.-Turkey relations. He describes the episode as contributing to “... the overall deterioration in U.S. Turkey relations... The Turks were very pissed.”⁵³

This same sort of unanticipated effects of contracting is playing out today on the U.S.’s current strategy for winning the counterinsurgency in Iraq. The week before the Blackwater shooting, General David Petraeus and Ambassador Ryan Crocker delivered their assessment to Congress of the “surge” strategy in Iraq and their plans for winning war in the year ahead. While there was debate as to whether the various benchmarks on the military end were being met, there was general agreement that the benchmarks on the Iraqi political side were falling well behind.⁵⁴ All concurred that the Iraqi government would have to be pressured into action if the strategy was going to succeed.

Then, the Blackwater shootings happened and the relationship flipped over the course of the 20 minute gun fight. Senior U.S. government officials went from figuring out how best to pressure the Maliki government to scrambling to repair the relationship. Within hours, Secretary of State Condoleezza Rice had called

the Iraqi Prime Minister. She didn’t call to press him to take action on key political benchmarks like passing an Iraqi oil law or solving amnesty issues. Instead, she called to express her regrets about the Blackwater shootings. With the State Department so dependent on contractors that it could not move around in the country without them, she and Ambassador Crocker soon were reduced to begging the Iraqis not kick out the firm, because the shutdown had paralyzed nearly all U.S. diplomatic and intelligence efforts inside the country (Blackwater also has a contract to guard CIA offices in Iraq).

Ironically, enough, President Bush had been previously scheduled to meet with his Iraqi counterpart a mere eight days after the shootings. The top of the President’s agenda no longer included how to get the Iraqi government to act to stem sectarian violence, so that U.S. military forces could return home. Instead, it was now Blackwater.⁵⁵

CONCLUSIONS

Neither private military contractors in general nor Blackwater in particular are the only cause of U.S. troubles in Iraq. We can be sure that history will point to a laundry list of leaders and organizations to blame.

However, based on the record so far, it does not appear that the massive outsourcing of military efforts has been a great boon to the counterinsurgency effort either, especially when it helped lead to episodes like the recent Blackwater shootings. Retired Army officer and conservative analyst Ralph Peters is perhaps the most blunt on this. “Armed contractors DO harm COIN [Counterinsurgency] efforts. Just ask the troops in Iraq.”⁵⁶

As the U.S. government now finally debates the private military contracting issue, albeit almost a decade

⁵² Matthew Lee, “Feds Target Blackwater in Weapons Probe,” *The Associated Press*, September 21, 2007.

⁵³ Email to Author, September 22, 2007.

⁵⁴ General Accountability Office, *Securing, Stabilizing and Rebuilding Iraq: Iraqi Government Has Not Met Most Legislative, Security, and Economic Benchmarks*, September 4 (2007).

⁵⁵ Brian Bennett and Adam Zagorin, “Bush and Maliki to Talk Blackwater.” *Time.com*, September 19 (2007), <http://www.time.com/time/world/article/0,8599,1663306,00.html>.

⁵⁶ Ralph Peters, Email, Peter W. Singer, September 20, 2007.

too late, it must move beyond the obvious focus on shoring up accounting, oversight, and even legal accountability. Iraq has taught us much when it comes to the private military industry. We need to update and clarify the laws, on both national and international levels. We clearly need to launch a program of oversight, reform, and management. We must restore the government's ability to manage such contracts, rebuilding our contract officer corps. Finally, we need to start working the market, rather than being worked by it. That is, we must develop a new level of punishment for any corporate actor that carries out fraud or undermines security.⁵⁷

These are all critically important, but they ignore an underlying issue: We also need to actually look at when and where it makes sense to contract out in the first place.

The U.S. government needs to go back to the drawing board and re-evaluate its use of private military contractors, especially within counterinsurgency and contingency operations, where a so-called "permissive" environment is unlikely. It needs to determine what roles are appropriate or not for private firms, and what must be kept in the control of those in uniform or public service. This must include the evaluation of not only whether the function in question is "mission critical" or "emergency essential" (two terms of art that essentially ask whether the function's failure, suspension, or withdrawal would harm the mission, as appears to have occurred in the recent episode), but also whether the outsourcing creates undue difficulties for overall political or legal efforts.

As part of this determination, it is becoming clear that many roles now handed over to private military contractors have proven instead to be inherently government functions. A process must immediately begin to roll such inherently governmental functions back into government hands. These functions that are clearly public in nature include armed functions in the battle space, including security of U.S. gov-

ernment officials, convoys, and other valuable assets. That is, counter-insurgencies and other contingency operations have no frontlines. It is time to recognize this, as well as that the Defense Department's "supporting" function to civilian agencies in such operations does not include merely stepping aside for a private contractor force.

That U.S. civilian diplomatic, reconstruction, and intelligence operations in Iraq, which military experts describe as 80% of the task of winning the counterinsurgency, shut down after the Blackwater suspension, illustrates both the inherently governmental importance of these missions and the massive vulnerability we have created. As CENTCOM commander Adm. James Fallon notes, contractors shouldn't be seen as a "surrogate army" of the State Department or any other agency whose workers they protect. "My instinct is that it's easier and better if they were in uniform and were working for me."⁵⁸

The division of "Armed or not?" seems an easy and apparent one to apply in determining whether to "Outsource or not?" It is not, however, where a sensible and honest evaluation would end up. There are also several unarmed functions that clearly affect the operation's success or failure, including such roles as military interrogations and other intelligence tasks, as well as the movement of critical supplies like fuel or ammunition. In turn, there are many, many others, such as the running of fast food restaurants, which need not be governmental and can be left to the private market.

If the Pentagon and State Department prove unwilling or unable to launch this process of restoring our government's capacity to carry out its constitutionally mandated mission, then the legislative branch must act for them. Congress has been funding an entire pattern of private military outsourcing that it never explicitly voted on, and it is well past time it recognize this. Again, Congress's actions must not merely be limited to the issues of oversight, management, or

⁵⁷ For further on these points, see articles available at www.pwsinger.com.

⁵⁸ Miek Bakr, "Cowboy Aggression Works for Blackwater." AP, September 25, 2007.

even legal accountability that are finally being debated today. It must mandate that functions which are inherently military or governmental in nature will be carried by public servants. Those that are not, it should not fund. The only other option is for Congress to continue to look the other way as the budget supplemental and internal project funds, intended for public operations, continue to facilitate outsourcing in areas that no one openly would fund in a regular budget.

Our “public by public” policy need not be inflexible. The return of inherently military and government functions to U.S. military and government personnel will take time, the retasking of personnel, and amendments to existing contracts. Additionally, as one former Pentagon official who support the above, noted, it must recognize that, “There are always going to be exceptions to the “rule” (policy).” He was also clear, however, that “But those need to be only for extraordinary, exceptional, and temporary (I stress again – temporary) situations.”⁵⁹ For example, even in such clearly governmental areas as military interrogations, a contractor might have a special skill, such as Arabic language with an Iraqi accent, that the active force lacks. With proper supervision, it would be proper to outsource. But the key is that this short-term lack of skills or personnel should neither be the excuse for whole-sale outsourcing of the entire function over the long-term, nor the excuse for the public force to not start building its own ability to meet any such changing need. Indeed, it is a basic lesson of business that can be applied to policy. If you do not start investing to meet your needs now, all you are doing is to guarantee that you will still be reliant (and paying more) for the same need over and over again the long-haul.

An illustration of this has proven to be diplomatic security, the outsourcing that led to the recent controversy. Protecting U.S. officials, who represent our foreign policy in the field, is obviously a task of public importance. Yet, while dangers to U.S officials have gone up around the world, State’s Diplomatic

Security force has been hollowed out. Instead, in what began as small, “extraordinary” contracts in Afghanistan, contractors were hired to supplement the public force. Now, though, the extraordinary is the ordinary, and close to the entirety of the diplomatic security task for the coming years has been handed over to private military contractors under a multi-billion global contract, for Iraq and elsewhere. We now see the consequences. It was not that the changing strategic need was not recognized, nor that there are no other options, nor that the U.S. did not have the funds to pay for answering the need. Instead, we simply chose to lock ourselves into an addiction cycle. It is even replete with all the classic signs of denial, such as when State Department officials like Ambassador Crocker claim that “There is simply no way” to operate than without Blackwater, at the very same time that his embassy was effectively shut down because of the very same firm’s actions.⁶⁰

Such private exceptions (to the rule of “public by public” functions and personnel) must not be allowed to become an opening upon which to simply fall back into the over-outsourcing addiction. Such exceptions must have a high threshold, including legislative notice, and the type of improved oversight and management and legal clarity finally being debated now. Moreover, these exceptions should have a half-life. Whenever a private military or “security” contractor is used to carry out an inherently governmental function, the contracting agency must be required to specify what steps it is taking to ensure that such an inherently governmental need will be met in the future by public forces, within a reasonable amount of time.

In conclusion, the U.S. government is in a terrible predicament today when it comes to private military contractors and counterinsurgency operations, and it is a predicament of its own making. It has over-outsourced to the point that it is unable to imagine carrying out its most basic operations without them.

⁵⁹ Former Pentagon Official, Email, Peter W. Singer, September 18, 2007.

⁶⁰ As quoted on “Iraq revokes Security Firm’s License,” *ABC News*, September 17, 2007.

At the same time, the use of contractors appears to be hampering efforts to actually win the counterinsurgency campaign on multiple levels.

Many of those vested in the system, both public and private leaders, will try to convince us to ignore this cycle. They will describe such evident pattern of incidents as “mere anomalies,” portray private firms outside the chain of command as somehow “part of the total

force,” or claim that “We have no other choice.” These are the denials of pushers, enablers, and addicts.

Our military outsourcing has become an addiction that is quickly spiraling to a breakdown. Only an open and honest intervention, a step back from the precipice of over-outsourcing, can break us out of the vicious cycle into which we have locked our national security. Will our leaders have the will to just say no?

Coda:

On September 21, 2007, five days after the latest shooting incident in Baghdad, Blackwater resumed operations in Iraq.

ABOUT THE AUTHOR

Peter Warren Singer is Senior Fellow and Director of the 21st Century Defense Initiative at the Brookings Institution.

Dr. Singer is considered one of the world's leading experts on new actors in 21st century warfare. He first started researching the issue of private military contractors in 1996. His book *Corporate Warriors: The Rise of the Privatized Military Industry* (Cornell University Press, 2003) was the first to explore the new industry of private companies providing military services for hire, an issue that soon became important with the use and abuse of these companies in Iraq. It was named best book of the year by the American Political Science Association, among the top five international affairs books of the year by the Gelber Prize, and a "top ten summer read" by *Businessweek*. It is now in the assigned texts at venues ranging from Yale Law School to the Army War College. In addition, Singer has written over 30 articles and reports on private military industry, in venues ranging from *International Security* to *Foreign Affairs*.

Singer continues to serve as a resource on the private military issue to the U.S. Congress, U.S. Department of Defense, CIA, and European Union and he helped bring to light the role of private contractors in the Abu Ghraib prison abuse scandal and the Haliburton contract controversies in Iraq. He was also the first to break the story of the UCMJ law change. Singer's work was featured in the History Channel documentary "Soldiers for Hire" and he served as a consultant on the topic for the TV drama "The West Wing."

Dr. Singer has also worked for the Belfer Center for Science and International Affairs at Harvard University, the Balkans Task Force in the U.S. Department of Defense, and the International Peace Academy. Singer received his Ph.D. in Government from Harvard University and previously attended the Woodrow Wilson School of Public and International Affairs at Princeton University. He is presently working on a new book exploring the impact of unmanned systems on war, entitled *Wired for War*.



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