

Executive Summary

“Ethics and Military Contractors: Examining the Public-Private Partnership.”

U.S. Naval Academy’s 9th Annual McCain Conference on Ethics and Military Leadership (23-24 April 2009)

I. Strategic Leadership Challenges

Command, Control, and Communications (C³). Based on the observations and experiences of those operating on the frontlines, the chief challenge in the battle space for United States military units and governmental organizations working with private military contractors (PMCs) is C³. Absent clear lines of authority or common operating procedures, commanders rely on junior leaders’ initiative, adaptability, and creativity to foster a healthy working relationship with PMCs, coordinate operations, and ensure mission accomplishment.

Ethical Violations. Most ethical violations occur not among motor pool or food service employees, but among armed private security contractors (APSCs). Complaints registered against these contractors include insensitivity to the local populace, aggressive use of force, and other operating procedures that undermine counterinsurgency (COIN) objectives.

Prospects for “Proxy Wars.” Regardless of US policy, other nations will likely continue to use APSCs. This fact creates the possibility of US-based contractors working at cross purposes with contractors from allied nations—for example, in providing maritime security. Likewise, it is possible that US military forces, or US-based APSCs, might one day face a “proxy war” in Africa or Southeast Asia against military contractors from adversary nations.

II. Strategic Leadership Recommendations

Total Force and Interagency Operations. Multifaceted Total Force (Active, Reserve/Guard, contractor) and interagency operations should take into account the complexities of commanding disparate organizations whose missions and cultures are often in tension. This tension will be resolved only through a unified command structure, with the appropriate military or government official at the top, in sole possession of the final authority and responsibility for the entire battle space.

Law, Character, and Combat. In both conventional and irregular war, the normal rule of law—and attendant mechanisms for oversight and punishment—has deteriorated. As a result, the use of deadly force must be entrusted only to those whose training, character and accountability are most worthy of the nation’s trust: the military. The military profession carefully cultivates an ethic of “selfless service,” and develops the virtues that can best withstand combat pressures and thus achieve the nation’s objectives in an honorable way. By contrast, most corporate ethical standards and available regulatory schemes are ill-suited for this environment. We therefore conclude that contractors should not be deployed as security guards, sentries, or even prison guards within combat areas. APSCs should be restricted to appropriate support functions and those geographic areas where the rule of law prevails. In irregular warfare (IW) environments, where civilian cooperation is crucial, this restriction is both ethically and strategically necessary.

“High Risk” Combat Support. Additionally, the privatization of combat support functions with tight linkages to force application should be limited, and involve careful screening. These functions include intelligence collection and analysis, and advising/training for combat.

Contractors and Humanitarian Intervention. The sole possible exception to the foregoing provisions may be during calls for humanitarian military intervention. When US and UN-member military forces are unavailable to aid victims of genocide, we believe the employment of APSCs deserves thoughtful consideration.

Improving the Public-Private Partnership. In addition to the application and management of violence, “inherently governmental” functions include the oversight and legal regulation of private sector activities. Use of private contractors for logistical and other combat support seems ethically appropriate, helpful, and cost-effective. In these instances, the military should improve its contracting and oversight procedures. In high-threat environments, however, care should be taken to avoid overreliance on the private sector which could lead to degradation in essential combat support.

Contractor Licensing. To these ends, PMCs and their trade associations should work with DoD and DoS to establish minimum qualifications to engage in competitive bidding, develop effective licensing and regulation, and dismiss or declare ineligible those individuals or organizations who violate these standards.

International Organizations. Finally, given the dangers associated with non-US APSC involvement in human rights abuses and proxy wars, the UN and regional institutions should better define and promote APSC “best practices.” The UN/ICRC *Montreux Document* (17 September 2008) may serve as an excellent foundation for these efforts.

III. Reform of Professional Military Education and Training

PME and War Games. With few exceptions, the preparation of military personnel to operate with PMCs has not been an explicit topic of PME and war games. We resolve to remedy these deficiencies at all educational levels—calling attention to path-breaking efforts, sharing course syllabi and other resources, and working with recently-deployed personnel to develop case studies and war game scenarios.

USJFCOM/J9. Of note are the training materials developed by the Joint Forces Working Group on Armed Private Security Contractors (USJFCOM/J9). Their proposed handbook contains essential information and battlefield training scenarios that should be incorporated into PME curricula and war games.

Public-Private Partnerships. Finally, we will engage the private sector itself by inviting leading representatives to lecture and lead discussions at our respective institutions.