

# The Use of War to Profit

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## **Abstract**

*The United States has engaged in numerous wars since its inception as a nation. Every conflict used private civilian contractors to meet the needs of the military. From the Revolutionary War to present day, companies have been supplying services and materials to the military on the assumption that this is the most efficient means to support the war effort. In almost every aspect of war, besides combat, there is a private company willing to fill the demand. Companies that gain contracts with the government can take advantage of the lack of government oversight. In order to increase profit, companies frequently use fraud, waste, overcharging, poor quality of work, and at times, put their employees in dangerous situations. There have been limited legislative or punitive response to these practices, and companies that have been caught blatantly overcharging the government still continue to receive bids in the millions, if not billions, of dollars.*

## **About the Author**

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## **The Use of War to Profit**

### **Introduction**

A recent check revealed that the wars in Iraq and Afghanistan have cost the United States since 2001 almost \$1.6 trillion (Cost of War, 2011). It is now 2012, and according to Vice President Biden, the United States will be in Afghanistan until at least 2014 (Zengerle, 2011). Regardless of the reasons the US is in these wars, which are many, they are expensive.

According to Stiglitz and Bilmes (2008), the estimated total amount necessary to pay for these two wars is over \$3 trillion. This expense is not simply from funding the military and veteran expenses, but is also spent hiring private contractors to support the war effort. In almost every aspect of the war, there is a private contractor available for hire. With the amount of money that is provided by Congress, there is no doubt that there is opportunity for wartime profiteering by companies. Defense contractors' stocks have risen substantially since the beginning of war.

Halliburton's stock, for example, was about \$9 a share in January of 2003 and, as of April, 2011, has risen to about \$50 a share. That is an increase of about 400% ("Stock Information," 2011).

Along with the money given to contractors for services provided, there is room for fraud, waste, and overcharging by companies for these services. This is because of the lack of regulatory oversight by the U.S. government. With the amount of money being dispersed to so many different companies, errors that involve millions of dollars are common.

This paper intends to examine the amount of wartime profiteering, fraud, waste, and ethical violations that exist when the military uses private contractors to support the war effort. This type of white collar crime has existed throughout America's history. However, there have been several legislative acts intended to regulate corporations so that these crimes are minimized. Yet, there has also been legislation passed that seems to invite profiteering. The paper will

illustrate how wartime profiteering has been affected by legislation intended to regulate corporate profits, to demonstrate to what extent it exists, and to identify which companies are the major players.

### **Brief History of Wartime Profiteering in America**

Wartime profiteering and the fraud that accompanies it is not a new phenomenon. Ever since the beginning of the United States there has been involvement with wartime extortion. There is much evidence that wartime profiteering and overcharging took place during the Revolutionary War by both the Americans and Loyalists supplying the war efforts. Everything from food staples to slaves was sold at exuberant prices due to the increased need. There was also many accounts of fraudulent charges taking place that the governments, on both sides of the war effort, did not catch (Fingerhut, 1968). The Civil War saw its share of companies enjoying the profits of war as well. This war purchased more materials than any of the previous wars. It was common for officials to accept bribes for munitions contracts. Outright fraud upon the government was to blame for the exuberant prices paid for many materials. However, at this time in history there were no large scale producers of war munitions in the United States.

It wasn't until the 1880's, when the Navy began building new vessels, that large scale and important contracts were made with large manufacturers. After paying unreasonable prices for armor for the ships (\$574-\$671 per ton), Congress passed statutes limiting the amount of money spent on armor to \$300 a ton. Armament manufactures refused to make armor for that price; however, the onset of the Spanish-American War forced Congress to raise the limit to \$400 a ton (Hensel & McClung, 1944). It became evident that this was indeed wartime profiteering when, in 1896, Congress found Carnegie and Bethlehem Steel companies were selling armor plating to Russia at one-third the price that they were to the U.S. government. The

Federal Trade commission demonstrated the extended use of fraud, deception, and the huge profits companies were guilty of in a 1918 report titled “Profiteering” (Udis, 1973).

World War I, again, found the United States reliant on private manufacturers to supply goods, and again, there were efforts to control the price gouging and fraud that accompanies war. The first few months of planning WWI were filled with confusion and disorganization. The Army and Navy attempted to purchase materials as they had in peace time by purchasing from the lowest bidder. The demands of the war did not allow for this type of purchasing long. Manufacturers would not give competitive bid figures that were at fixed prices, but instead they would give cost-plus contracts. Cost-plus contracts take place when a contractor produces the product at cost of materials plus time and labor to manufacture it. This makes it difficult for administrators and accountants to keep track of how much money is going to producers for costs and for labor. Needless to say, many contractors gave into the temptation to increase their profits by increasing the cost. Congress attempted to curb the excessive profits that companies were experiencing due to the war through several means, but no legislation was successfully passed with which the government and business both benefited (Hensel & McClung, 1944).

Following WWI, the Nye Committee identified “shameless profiteering” and extravagant waste by companies during this war. The committee predicted that the economic power of certain companies would concentrate if industry and the armed services were left to regulate themselves in future wars. In hopes to eliminate the “economic evils” that occur during wartime, the committee supported legislation that would remove those with vested interests in a company’s profits from government service. The war department and the president opposed the bill and no legislation was passed. After war was declared in 1941, as predicted by the Nye Committee, the relations that existed between businesses and the armed services during WWI

prepared the way for the “military-industrial complex” of WWII and the Cold War years (Kiostinen, 1970). The military-industrial complex refers to the relationship that exists between the parties that manage wars (the military, the presidential administration, and Congress) and those companies that produce weapons and equipment for war. Dwight Eisenhower first used this term, and warned of it, in his farewell address (sourcewatch.org).

In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together.

WWII, as with all wars, had significant profits for private manufacturers, but not to the extent that was revealed in the Nye Committee. Following WWI, cost-plus manufacturing was eliminated, and in WWII Congress allowed for its usage if necessary, but it also returned to the method of purchasing from the lowest bidder (Lorell et al., 2000). Similarly, in the Korean War there were relatively few scandals involving profiteering. This may have been because of the lack of national urgency. In earlier wars there was a sudden need for munitions and services that invited profiteering of all kinds, but wars since then have had a limited amount of such urgency. As technology and sophistication of weapons has progressed, as in the Cold War, the process in which weapons are acquired has become more complicated. There was a greater need for the armed services to align with civilian business in areas of research and development and production. Rather than blatant scandals of bribery and fraud, wars between WWII and the end of the Cold War have suffered from inefficiency and waste involved in private contracts (Udis, 1973). This led to several pieces of legislation, such as the Truth in Negotiations Act in 1962, the establishment of the Cost Accounting Standards in 1970, and the Packard Commission in 1980's.

The Packard Commission recommended that the Department of Defense (DoD) expand its use of commercial products and institute “commercial-style” competition on the basis of price as well as past performances. The 1984 Competition in Contracting Act partially offset much of these recommendations by allowing equal access to defense contracts for all firms regardless of size and experience. In 1990, Congress passed the National Defense Authorization Act. This lifted many of the regulations that existed and allowed for the DoD to integrate with civilian industry. This was intended to keep costs down and performance up because it did away with many commercial business practices that formally existed. This was further emphasized by the Federal Acquisition Streamlining Act of 1994, which, as the name suggests, made it easier and faster for companies and the military to work together making the gap between companies and the military smaller (Lorell et al., 2000).

Today, as in past wars, the military-industrial complex appears to be alive and well. It is obvious the U.S. has ignored Eisenhower’s warning. It seems that war can be very profitable for large companies that are able to provide the support asked of by the military and Congress. When there is an effort to combat wartime profiteering with regulation, the regulation enacted is often offset by future legislation that reopens the door to war profiteering by companies. Even if the company is under suspicion of fraud and waste, the company’s profits do not seem be affected. For example, KBR, a former subsidiary of Halliburton, was under investigation for 32 cases of overbidding, bribery and other violations that took place between 2001 and 2004, and linked to nearly \$13 billion in war zone fraud cases in the same time period. However, despite the previous acquisitions, KBR’s revenues in 2009 first quarter revenues were up 27%, and in 2008, had total revenues that were up 33% (Scahill, 2009).

Another facet to the recent wars is that private contractors are now providing services to the armed forces, rather than just providing materials and technology. Military contractors argue that they are not mercenaries, because they do not have weapons or fight in combat. However, Sam Gardiner, a retired Air Force colonel, illustrates a simple argument: “It makes it easy to go to war.” Traditionally, reserve soldiers were performing many of the menial and least liked jobs (e.g. setting up tents, cleaning toilets, washing clothes, cooking, and guard duty). These soldiers often complained and grumbled which would create political friction. Private contractors are eager to fill these positions and take the jobs that were unwanted by soldiers (Chatterjee, 2004, p.59).

### **Legal Standing of Private Contractors**

There is a continuing question about the scope in which private contractors are allowed to operate. There are reoccurring issues involving armed contractors that are hired for security purposes. These are generally known as Private Security Contractors (PSC’s). The Geneva Convention of 1949 identified what constituted illegal combatants (mercenaries), and stated that mercenaries were not guaranteed the right to be prisoners of war, but did not address the issue of their employment. In 1989, the United Nations passed resolution 44/34, which was titled the “*International Convention against the Recruitment, Use, Financing and Training of Mercenaries*”, also known as the UN Mercenary Convention. Article 2 of the resolution made it an international offence to employ mercenaries. Mercenaries are defined as persons who are not members of the armed forces of the parties in conflict but participate in direct combat for personal gain. Their allegiance to a party is not conditioned by loyalty or obedience but by monetary gain. However, there is a vague definition of what constitutes “direct combat.”

This lack of a concrete definition makes it difficult to draw the line between “direct combat” and contractors simply protecting themselves when situations become hostile. Jurisdiction and oversight are two other issues that add to convolution of who PSC’s answer to legally. If a contractor is suspected of engaging in unlawful combat, the question arises of what legal system has jurisdiction? There is U.S. law and the host nation’s law (i.e. Iraqi law) that both may govern private contractors. U.S. laws include the War Crimes Act of 1996, Military Extraterritorial Jurisdiction Act (MEJA), Uniform Code of Military Justice (UCMJ), and others. Private contractor employees may be prosecuted under these statutes if suspected to be in violation of wartime laws. However, there is a breakdown of jurisdiction when it comes to who can be prosecuted. These laws do not seem to cover third country civilian employees, those from neither countries in conflict, or civilians who are hired from the host country by private contractors (also known as foreign nationals). Each of these groups make up a large number of employees who are under the employment of contractors making it difficult for the U.S. to restrict actions of many employees of U.S. based companies. Iraqi law also has very limited control over private contractors. The Coalition Provisional Authority (CPA) has made contractors exempt from Iraqi laws, regulations, and legal processes in matters that are related to the terms and conditions of their contract (Elsea, Schwartz, & Nakamura, 2008). This leads to a bigger, more general issue in regards to companies themselves. These companies are based in the U.S. with little oversight of their employees on the ground in combat areas. If infractions do take place, those individuals who committed the violations are the ones who are subject to legal prosecution and not the companies employing them.

### *Questionable Actions*

PSC's are the second highest number of armed forces in Iraq. Only the U.S. military has more armed personnel in the area. Many of the operations and security details require contractors to enter areas that are of high risk in order to fulfill contracts. While they are not "armed combatants," as outlined in the Geneva Convention, they are very well armed (Greenwald, 2006). There have been several occasions where the line of defending one's self and engaging in combat has become hard to determine. One of the more notorious incidents was when 5 employees of Blackwater Worldwide, one of the largest U.S. private security contractors, shot and killed 17 and wounded 24 Iraqi citizens in Nisour Square in 2006. This brought much scrutiny towards the company. The employees claimed they fired in self-defense believing that they had come under attack. Charges of manslaughter were levied against them, but in 2009, the charges were dismissed. This case, however, reopened in April of 2011, after the Department of Justice won an appeal from a three judge panel that disagreed with the lower court's judge's ruling ("Blackwater Worldwide," 2011).

This is not the first time that Blackwater employees have been under legal investigation. The Moonen case in 2006 involved a Blackwater employee, Andrew Moonen, who was accused of killing a guard assigned to the Iraqi vice president. There was also an incident in September of 2007, where murder charges were brought against two Blackwater guards for killing two Afghan civilians. Both of these cases have been dismissed because of lack of evidence. Besides the issue of jurisdiction and the virtual legal vacuum private contractors operate in, the justification of self-defense is hard to disprove beyond a reasonable doubt in court. There is very little collection and preservation of evidence in a war-zone. A civil suit was brought against Moonen and Blackwater by the family of the guard that was killed; however, the case was also dropped after

there was a financial settlement (Risen, 2010). Incidents that would court martial any armed service member simply sends a private security contractor home.

Transparency is yet another issue since companies, Blackwater in particular, refuse to release information about employees or actions that they commit (Democratic Policy Committee (DPC), 2010). Only those incidents that are major, and that the media are able to portray, are noticed by the general public. PSC's routinely practice aggressive firing at vehicles and run cars off the road if they are thought of as a "threat" (National Geographic, 2007). Below are a few incidents that the New York Times reported on that were uncovered by WikiLeaks (Glanz & Lehren, 2010):

- May 14, 2005, a Blackwater security detail "shot up a civilian vehicle" killing a father and wounding his wife and daughter (p.3).
- May 2, 2006, an Iraqi ambulance was struck by a roadside bomb. The driver was killed by "uncontrolled small arms fire" by Blackwater guards (p.3).
- August 16, 2006, Blackwater contractors traveling southbound on a highway were struck by an I.E.D. In response, the contractors shot and killed an Iraqi in the back seat of a vehicle in the northbound lane (p.3).

Other than the blatant killing of Iraqi civilians, private contractors have been involved in other actions that seem to breach ethical lines without fear of legal action. Nearly 50% of all interrogators in Iraq are employed by companies. For example, CACI and Titian, information/technology and communications companies that became involved in intelligence and security, received contracts to conduct interrogations of Iraqi prisoners worth tens of millions of dollars. This creates a conflict of interest where a company makes a profit based on the extraction of information from individuals. Again, there is a limited chain of command with no

direct supervision allowing company executives to separate themselves from their employees. This has led to instances such as what took place at Abu Ghraib involving CACI and Titan employees. The events at Abu Ghraib included acts of torture and dehumanizing actions by interrogators to Iraq prisoners. The Bush administration claims the torture was limited to a few bad soldiers, but reports that have been uncovered suggest contract interrogators were heavily involved in terrorizing of prisoners. These actions again bring into question the appropriate uses of private contractors (Chatterjee, 2004; Greenwald, 2006).

The actions of private security companies negatively impact the reconstruction efforts in Iraq and Afghanistan. There is a clear message that is sent to the people of those countries where US private security contractors operate. That message is “our lives are worth infinitely more than yours.” When companies, such as Blackwater, fire upon a vehicle that is simply in the wrong spot at the wrong time, it portrays a clear disregard of human life, which adds to the tension between Iraqi civilians and the U.S. military and furthers the destruction of the fragile relationship between Iraq and the U.S. (DPC, 2010).

### **Services Received From Private Contractors and the “Costs” Associated**

#### ***U.S. Dependence on Private Contractors***

At the end of 2010, there were nearly 200,000 private contractor employees in Iraq and Afghanistan. In comparison to U.S. military troop numbers, this makes an almost even ratio since for every military personnel there is one private contractor employee. While there is no single definitive number on the amount of funds going to private contractors, the official number from the Commission on Wartime Contracting (CWC) in Iraq and Afghanistan (2011) is nearly \$177 billion at the end of 2010. This breaks down to \$407 million per congressional district or \$1,505 per U.S. household. Private contractors have become the “default option” for the DoD.

Contractors once seen as a supplemental and temporary fix for problems, are now relied upon almost to the point where the military could not achieve their goals without them. The lack of government expertise in numerous areas, along with short-term rotations of government personnel which makes contractors local resident experts, has led to this reliance on contractors.

The lack of oversight, expertise, and poor planning has opened the door for significant amounts of waste and fraud to occur. The confirmed official estimate for the amount of fraudulent billing by contractors is as high as \$12 billion. This means that about 7% of all revenue going to private companies is lost to fraud. The last estimate of the amount of waste by the Special Inspector General of Iraq Reconstruction, in 2009, was to be between \$3 and \$5 billion. There is a risk that an additional \$11.4 billion will be at risk for waste because of inadequate planning for construction by contractors. Many believe that the actual sum of waste is much higher than the official estimate. There are suggestions that tens of billions in taxpayers' dollars have failed to achieve their intended use in Iraq and Afghanistan (Commission of Wartime Contracting in Iraq and Afghanistan, 2011).

There are numerous individual instances that demonstrate some of the fraud, waste, and overcharging that occurs by private contractors. For example, KBR, a Halliburton subsidiary, bills the government nearly \$100 per load of laundry, and charges about \$45 for a 6-pack of soda. Halliburton was contracted to supply water for bathing and drinking for the troops, however, the water tested contaminated in 63 of the 67 treatment plants because they neglected to chlorinate the water (DPC, 2010; Greenwald, 2006). There have also been reports that trucks that are used for the transportation of goods are at times not fitted with oil filters and when the engines seize, the company (KBR ) destroys the vehicle, counts it as a loss, and bills the government for a new one (Greenwald, 2006). There are virtually no facilities for maintenance

for the trucks. Trucks that cost about \$85,000 are left to be looted and destroyed because of a \$25 part that was needed or a spare tire that was removed (Chatterjee, 2004). Billing for meals that are not served, serving expired and spoiled meals, doubling head counts, and billing for serves that were never completed are common occurrences by Halliburton/KBR. There have even been reports that KBR and Halliburton employees have stolen military weapons and materials and hide them in the companies' "lay down" yards. The list of these types of practices keeps going, but in total, the Defense Contracting Auditing Agency (DCAA) documented that KBR, who receives 43% of the contractor government funds, is responsible for the "vast majority" of the suspected fraud cases that could total more than \$13 billion in "unsupported" costs the government. Similarly, Halliburton has more than \$1.4 billion in "questionable and unsupported" costs (Chatterjee, 2009; DPC, 2008; Scahill, 2009).

These actions are not limited to Halliburton and KBR. Custer Battles, a security company, was found to have submitted over \$10 million in false claims to the US government. Parsons, a construction company, failed to build 122 of 142 health clinics even though they had received \$200 million of the \$243 million contract to do so. Parsons also received a \$31 million contract to build a prison in Kahn Bani Sa'ad but never completed it. When the project was transferred to the Iraqi government, they abandoned it because of the terrible condition it was in. CAPE, another construction company, charged \$7 million for a road that was never built (DPC, 2008). DynCorp International, a security and training company, received \$6 billion for police training in Afghanistan. It was reported that the program was nearly a complete failure. The six-week training course that the police recruits received has resulted in inadequate training, corruption, and poor police retention (Knutsen, 2010).

Much of the waste and overcharging stems from the current form of contracting called “cost-plus.” Cost-plus contracts, as mentioned earlier, involve the government paying a company the cost of materials and services plus some extra in order for the company to make a profit. This is compared to a fixed-fee contract where the two parties negotiate for a single dollar amount that the company is required to complete the job within. The idea of cost-plus contracts is so contractors do not cut corners for a profit, but in reality, it gives the companies little incentive to save on spending. When the lack of oversight by the US government is combined with companies receiving a percentage of their spending as profit, it creates a system where corruption is almost expected to happen (Greenwald, 2006).

### ***Supporting Our Enemies: Host Nation Trucking***

Aside from what has been discussed above, there is another issue that should be noted about problems that arise from hiring private contractors. Use of contractors has helped financially support the instability in Iraq and Afghanistan. The U.S. military needs a substantial amount of resources to operate. The problem is that many of the locations that the military is in are very difficult to reach. This is especially true in Afghanistan compared to Iraq. Instead of taking man power and resources from the U.S. military, contracting to private companies has been used for logistical purposes.

Afghanistan is a landlocked country whose neighbors vary from uneasy US allies, such as Pakistan and Uzbekistan, to outright adversaries, such as Iran. In the past thirty years, war has devastated the little amount of infrastructure in Afghanistan. People in the east are scattered and separated by mountains, while in the south, they are separated by deserts. The harsh environment has presented the most complex logistical operation ever undertaken by the US military. With over 100,000 troops in Afghanistan, plus an additional 38,000 allied forces, there is a demand for

delivery of food, water, shelter, weapons, ammunition, and fuel. To put the amount of resources needed into perspective, U.S. and NATO forces needed 1.1 million gallons of fuel per day in 2009, and military and contractor planes delivered 187,400 tons of cargo. Ten times that amount was delivered overland, making 80% of goods delivered to Afghanistan by land. Because of its location on the Persian Gulf and being near several US allies, Iraq does not have near the problems of transporting war materials to troops as Afghanistan does.

There are two main land routes into Afghanistan, one from the south through Pakistan and the other is from the north through Central Asia. The southern route is more dangerous, but is the most often used because it passes through “the Pashtun tribal lands” where there are groups that are led by unseated Afghan Taliban. The northern route is safer, but it is longer and significantly more expensive. There is an additional 10-20 days of travel that costs two to three times the cost of the southern route. While being the fastest, bringing supplies in by air accounts for only 20% of cargo being brought into the country because of the cost associated with it and the lack of sufficient airports.

In order to get resources to American troops in over 200 forward operating bases, the U.S. military relies on eight companies to transport over 70% of the materials and goods to U.S. troops. These combined companies are known as Host Nation Trucking (HNT). The companies, mostly US based, split a \$2.16 billion contract to deliver goods. A crucial component of the contract with HNT is that the companies are responsible for the cargo they carry. All the security is the responsibility of the contractor, and convoys are independent of military escorts, unless otherwise determined by the U.S. military (House of Representatives, 2010).

The outsourcing of the supply chain in Afghanistan to contractors has had unintended consequences. The HNT contract fuels “warlordism”, extortion, and corruption as well as a

possible significant source of funding for insurgents. Given the perilous security conditions in Afghanistan, U.S. and allied contractors in Afghanistan have little choice but to hire private security companies. Of the armed guards used by the contractors in Afghanistan, 95% are local nationals, as opposed to third country nationals or U.S. citizens. According to a detailed House of Representatives report, titled *Warlord, Inc.* (2010), the security for the U.S. supply chain is principally provided by warlords. A clear example is Commander Ruhullah who is the largest security provider for the U.S. supply chain and leads a small army of over 600 armed guards. Local villagers along the road refer to him as “the Butcher” because of his quick use of arbitrary violence. There has been a strong push from the Afghan and U.S. government to disarm “illegally armed groups” (warlords, commanders, and militias); however, the disarmament has failed because warlords and militias have evaded the governments’ efforts by becoming private security companies for the coalition. Warlords have long been a part of war-torn Afghanistan and will continue to be centers of political, economic, and military power. They will add to the instability and hurt the reconstruction effort long after the U.S. and its allies have withdrawn and the U.S. supply chain is not needed. The hiring of warlords, as private security companies, only strengthens them and solidifies their position of influence in Afghanistan. Tens of millions of dollars go to local warlords for “protection.” Commander Ruhullah, for example, charges between \$1,500 to \$3,500 a truck and more if the situation calls for “special security.” Similar to the protection that was offered by the mafia, those contractors that operate a convoy without “protection” do so at their own peril. Companies who do not pay local warlords for their protection experience many attacks and intimidation from “private security companies.” The warlords exploit the lack of military control along the routes they operate.

While there is no direct evidence, the US House of Representative report, *Warlord, Inc.* suggests that there is a high probability that the convoy security commanders pay Taliban insurgents for safe passage through areas where the Taliban has strong support and freely operate. Interviews and statements of employees of HNT companies have led to strong suspicion that this is in fact what is going on. Rather than firefights occurring because of protection purposes, they occur because of failure in negotiations. Notes from a meeting of all the project managers from all the HNT companies and military logisticians estimates that \$1.6 - \$2 million a week was going to the insurgency (p. 36). In December of 2009, Secretary Clinton acknowledged “that a major source of funding for the Taliban was protection money from U.S. contractors” (p.37). Afghan officials report that the Taliban and local warlords typically take between 10-20% of the value of any project as the price for protection. This would suggest that “the U.S. and the international community are unintentionally fueling a vast political economy of security corruption in Afghanistan” (p. 38).

### **Harmful but Profitable**

Private contracting companies that participate in the “reconstruction” effort in both Iraq and Afghanistan not only affect the American taxpayer in their pursuit of profit, but in some cases the employees that work for them are also affected. Employees of contractor companies in many cases are not protected as well as they should be and are placed in hostile situations that are more dangerous than should be expected. The employees of KBR gave it a nickname of “Kill’em, Bag ’em, and Replace ’em” because of the lack of sympathy or concern for their employees. There is relatively little armor on trucks that drivers use to deliver materials. Ambushes are common in many areas of Iraq and Afghanistan, but KBR is severely lagging in the armoring of their vehicles (Burnett, 2006). KBR has also sent convoys of trucks down known

hostile roads, known as “red” and “black” roads (meaning ‘no civilians’), in order fill contracts. Many times the trucks are minimally loaded, and at times not loaded at all, but the drivers are told to go anyway so the company can bill the government for the trip (Greenwald, 2006). Former truckers for Halliburton report that there could be as many as one in three trucks that were empty (Chatterjee, 2004). The companies are essentially risking the drivers’ lives in order to make profit. Another example of potentially harmful and inefficient practices of KBR is not to serve meals on a 24 hour basis. Troops line up and wait for more than an hour to be served, because KBR only serves meals at certain times a day to save money. This is not only inefficient and inconvenient for troops, but potentially dangerous because it groups them together in one location making the vulnerability for attack much higher (Greenwald, 2006).

The incident that put private contractors into public view also involved a company cutting corners for profit. It involved four Blackwater employees who were escorting a convoy to pick up materials in March of 2004. The men were killed in an ambush by insurgents and their bodies were taken, burned, and hung from a bridge. Blackwater’s protocol stated that the men should have been in a fully armored vehicle with a guard in the back acting as a rear gunner to protect from attack. The families have argued that the evidence suggests that this was not the case, and Blackwater cut corners by not armoring the vehicles and not sending more men to be in the gunner position. The family sued Blackwater in order to get detailed information of what happened, because unlike military deaths, private contractor deaths do not have official reports about the circumstances. “Blackwater denies the allegations and has filed a \$10 million counterclaim. It says the families violated employment contracts that prohibit the men or their estates from suing the company” (Parker, 2007). At the beginning of 2011, the lawsuit was

rejected by a federal judge, because neither side was paying the cost of the process. The families could not continue to afford the costs of the lawsuit (“Suit against Blackwater,” 2011).

Another common way to gain profits, which is used by virtually all contractors, is the use of foreign nationals. As mentioned earlier, third country nationals and host country nationals are hired to a great extent. While American employees make well over \$100,000 a year in many cases, employees from lesser developed countries make significantly less. One private security company, Torres, currently is paying the guards they employ from Sierra Leon a low of \$250 a month, about the same as a local Iraqi security guard. Other private security contractors have been reported as paying Peruvians \$1,200 a month and \$800 a month for Ugandans (Chatterjee, 2010). During 2010, there were roughly 150,000 Iraqi/Afghan nationals and third-country nationals employed by contractors compared to about 47,000 U.S. nationals (Commission on Wartime Contracting, 2010).

Companies cut corners and put their employees in potentially dangerous situations in order to increase their profit margin. There is little legal recourse for many of these actions from the government. When employees or families of employees try to sue companies the lawsuit gets tied up in the court system so long that many times the families cannot afford the cost to continue the suit. When companies are found guilty of illegal action, the government usually fines the companies, but there is virtually no criminal charges taken against company leaders.

### **Legal Sanctions and Connections of Private Contractors**

#### ***Legal Sanctions Against Private Contractors***

There are relatively limited legal actions that are taken against private contracting companies and relatively no criminal charges are filed against company executives. If any criminal charges are brought, they are against the employees, because the executives have

distanced themselves and claim not to be accountable for the actions of their employees. An example of charges being an administrative matter opposed to a criminal matter is a recent Blackwater settlement. Blackwater reached a settlement with the U.S. government for \$42 million, not for fraud, waste, or abuses by employees, but for illegal weapons exports to Afghanistan. The company and the government opted to treat the issue as an administrative matter, and avoided criminal charges, so that it would allow Blackwater to continue to obtain government contracts. The company is still under federal investigation for Blackwater officials bribing Iraqi government officials and the excessive use of force that their employees consistently use; however, no charges involving these allegations have been filled (Risen, 2010).

Halliburton and KBR have also reached settlements with the U.S. government. According to HalliburtonWatch.org, in 2002, the SEC investigated the allegations against Halliburton's former directors and their accounting firm, Arthur Anderson LLP. Arthur Anderson's accounting firm was the same accounting firm involved with the Enron scandal. To increase profit, by inflating their stock value, the company counted their cost overruns as revenue instead of losses. Halliburton argued that their accounting firm approved the numbers that made them appear more profitable than they really were. In 2004, Halliburton paid a \$7.5 million dollar fine to settle the issue. As far as allegations of fraud and waste, Halliburton has been absolved from virtually all. They have tried to distance themselves from their controversial former subsidiary, KBR, by claiming they are their own company. However, when KBR recently admitted to paying \$180 million in bribes to the government of Nigeria and was required to pay a \$382 million in fines, Halliburton did not hesitate to pay off the settlement with the U.S. Department of Justice (Chatterjee, 2009).

KBR is very familiar with lawsuits against them. However, relatively few of the lawsuits have involved the blatant practice of fraud and waste. It was not until recently, April of 2010, that the Justice Department filed a lawsuit against KBR for overcharging the U.S. government. KBR has filed a countersuit that claims the lawsuit by the Justice Department is an attempt to avoid payment that the company is owed (Akre, 2010). The majority of the lawsuits involve civil liability cases where peoples' lives and health are at risk. Examples of these are burn pits operated by KBR to dispose of garbage that spread toxins in the air, electrocutions in buildings that were shoddily built and maintained by KBR, and exposing workers and troops to deadly toxins at water treatment plants (Isenberg, 2010).

### ***Political Connections***

With all the documentation of abuses, fraud, and waste that occurs with private contractors, it seems surprising that the same companies that are under investigation continue to get contracts. Many of these contracts are predetermined or consist of sole source bids, meaning there is only one company that bids. Government officials explain the lack of competition by a lack of suitable company that can fill the contract. For example, Blackwater recently received a \$120 million contract, in June of 2010, to guard U.S. consulates in Iraq, even though Blackwater is banned from operation in Iraq by the Iraqi government. The reason they are still in operation and receiving contracts there is because Iraqi law does not dictate private contractors. Other contractors that applied for the contract were deemed to be inadequate (Chatterjee, 2010). KBR has received and continues to receive contracts, many in the billions of dollars, as sole source bids with no competition despite the constant practice of overcharging and fraudulent billing (Greenwald, 2006).

The question remains, how do companies that are constantly under scrutiny for numerous illegal acts continue to receive government funding? There are two main possible answers for this question. First, companies have a very incestuous relationship with lawmakers in Washington, and second, companies hire PR firms and lobbyists to advocate on their behalf, especially when an unethical incident has become publically known. The most well-known example is former vice president Dick Cheney and his connection with Halliburton. Prior to his role as vice president, he was CEO of Halliburton for five years (1995-2000). He was picked to be CEO not because of business experience, which he had very little of, but for his connections with powerful people around the world that he had made during his time as Secretary of Defense. Needless to say, Halliburton was very profitable in the years Cheney was their CEO, and in the years he was vice president. Prior to Cheney's command of Halliburton, the company only received \$100 million in government subsidies and federal loans, but in the five years Chaney was CEO they received more than \$1.5 billion. These federal subsidies supported Halliburton's oil services contracts around the world. At the same time, the company received \$2.3 billion in U.S. government contracts. This was almost double the \$1.2 billion the company received in the five years before Cheney. After Cheney left Halliburton to serve as vice president, he still had financial ties to them, regardless of his 2003 statement saying he did not. After becoming George Bush's running mate, Chaney opted for his leaving payment as "deferred compensation" instead of a lump sum over a five year period. He received sums that were comparable to that of his vice president salary of \$198,000. Also, Halliburton's board voted to award Chaney early retirement when he left. This allowed him to leave with a retirement package that allowed him to retain stock options that were worth millions more than if he had resigned. As of 2004, Chaney owned 433,000 stock options with Halliburton that is worth about \$10 million (Chatterjee, 2004). Since

the start of the war, Halliburton and their subsidiaries have received more than \$38 billion in government contracts. The current CEO who took over after Cheney, David Lesar, received \$13.7 million in compensation in 2010 and has received \$114 million in compensation in the last five years (Forbes, 2011). Another way Halliburton, and many other companies, find favor with lawmakers is through political campaign donations. They are very strategic on who is awarded money. Mostly Republicans who are on committees that involve national security and natural resources seem to receive the bulk of Halliburton's contributions (Beckel, 2010).

Another example of a company having political connections is Blackwater. The former director of the CIA's counterterrorism center, Cofer Black, and former Pentagon inspector general, Joseph Schmitz, are among Blackwater's executives. Fred Fielding, a White House counsel member now, was once a part of Blackwater's legal team (Parker, 2007). After the 2004 Fallujah incident, where four employees were killed, Blackwater immediately hired a PR firm and met with several congressional members within 48 hours of the incident to protect the interests of the company (Greenwald, 2006).

### **Conclusion**

The wars the U.S. is currently fighting are the most privatized wars that our country has ever had (Greenwald, 2006). There has been an over dependence on the use of private contractors to do jobs that have historically been done by military personnel. Contractors are a quick fix to a deficiency that the military is experiencing; however, it comes with a price. Contractors are only concerned about profit, regardless of the PR campaigns that the companies run advocating their position in the reconstruction effort of Iraq and Afghanistan. They have consistently shown they are willing to commit fraud against the U.S. government, waste tax payer money, and put their own employees at risk, all in the name of increasing their revenue.

They do so in an environment without much fear of legal allegations. This is so, not only in actions of private security employees such as Backwater's, but for those executives who run companies as well. Indictments of fraud and waste hardly ever materialize into actual legal sanctions against companies, and if they do, all companies fear is a fine. There is virtually no fear of criminal charges being brought against them. A company might as well participate in actions that will increase their profit, regardless of ethical and legal barriers, because of the limited legal response to their actions.

Lack of oversight on the government's part is largely to blame for the extent in which companies are able to commit such actions. One of the highest recommendations of the Commission on Wartime Contracting (2011) is more oversight and accountability for contractors. Currently, Pentagon and DoD officials continue to pay contractors regardless of the evidence of overcharging. This may be because of the connections these companies have made with officials or just by the sheer size and availability of the company to meet military needs at a moment's notice. In any case, the current process of using and paying contractors in warzones to the extent that we are is detrimental to our mission and effort to reconstruct Iraq and Afghanistan, and waste of taxpayers' money. In sum, we are more dependent on private contractors than we have ever been, and it's as if the warnings of Dwight Eisenhower never existed. Regardless of legal action and legislation that is enacted, private contractors continually commit illegal actions in search of profit, and there seems to be no sign in stopping.

Even though the U.S. military has recently withdrawn from Iraq, private contractors still remain. The only U.S. presence will be 5,000 private security contractors. They will be in charge of protecting the U.S. Embassy and diplomatic personnel in Bagdad. The contractors need to be aware of the sensitive situation that their position entails. Policymakers need to be aware of the

activities of contractors and keep close oversight as to protect the fragile relationship Iraq has with U.S. (Dunigan, 2012). The contractors need to be mindful that events that took place in the not so distant past are not easily forgotten. They do not have the military there to buffer their actions and keep them in line, nor will they have comfort of having support from the military if things go wrong.

## References

- Akre, J. (2010, April 2). U.S. lawsuit accuses KBR of overcharging in war. *Injury Board National News Desk*. Retrieved from <http://news.injuryboard.com/us-lawsuit-accuses-kbr-of-overcharges-in-war.aspx?googleid=279954>
- Associated Press (2011). "Suit against Blackwater in 4 deaths is ended." *Boston Globe*, January 26. *Boston Globe*. Retrieved from [http://articles.boston.com/2011-01-26/news/29341666\\_1\\_jerry-zovko-katy-helvenston-blackwater](http://articles.boston.com/2011-01-26/news/29341666_1_jerry-zovko-katy-helvenston-blackwater)
- Beckel, M. (2010, July 9). Halliburton continues to flood lawmakers with contributions after oil spill. *Open Secrets Blog*. Retrieved from <http://www.opensecrets.org/news/2010/07/halliburton-continues-to-flood-lawm.html>
- "Blackwater Worldwide." (2011, April 25). *The New York Times*. Retrieved from [http://topics.nytimes.com/top/news/business/companies/blackwater\\_usa/index.html?inline=nyt-org](http://topics.nytimes.com/top/news/business/companies/blackwater_usa/index.html?inline=nyt-org)
- Burnett, J. (2006, May 25). The trucker's war: On the road in Iraq. *National Public Radio*. Retrieved from <http://www.npr.org/templates/story/story.php?storyId=5431088>
- Chatterjee, P. (2004). *Iraq Inc.: A profitable occupation*. New York, NY: Seven Stories Press.
- Chatterjee, P. (2009, June 2). Is Halliburton forgiven and forgotten?. *Huffington Post*. Retrieved from [http://www.huffingtonpost.com/pratap-chatterjee/is-halliburton-forgiven-a\\_b\\_210326.html](http://www.huffingtonpost.com/pratap-chatterjee/is-halliburton-forgiven-a_b_210326.html)
- Chatterjee, P. (2010, June 23). U.S. Congressional Wartime Commission targets armed contractors. *CorpWatch*. Retrieve from <http://www.corpwatch.org/article.php?id=15604>
- Cost of War (2011). [www.costofwar.com](http://www.costofwar.com)
- Democratic Policy Committee. (2008). *Major findings: DPC oversight hearings on waste, fraud, and corruption in Iraq*. Retrieved from [http://dpc.senate.gov/dpcdoc.cfm?doc\\_name=sr-110-2-155](http://dpc.senate.gov/dpcdoc.cfm?doc_name=sr-110-2-155)
- Dunigan, M. (2012). US control of contractors in Iraq is vital. *The Hill*, February 1.. Retrieved from <http://thehill.com/opinion/op-ed/208149-us-control-of-contractors-in-iraq-is-vital>
- Eisenhower, D. W. (1961). Military-Industrial Complex Speech. Retrieved from: [http://avalon.law.yale.edu/20th\\_century/eisenhower001.asp](http://avalon.law.yale.edu/20th_century/eisenhower001.asp)
- Elsa, J. K., Schwartz, M., & Nakamura, K. H. (2008). *CRS report of Congress: Private Security Contractors in Iraq: Background, legal status, and other issues*. (Order Code RL32419). Retrieved from Congressional Research Service: [www.fas.org/sgp/crs/natsec/RL32419.pdf](http://www.fas.org/sgp/crs/natsec/RL32419.pdf)

- Fingerhut, E. R. (1968). Uses and Abuses of the American Loyalists' Claims: A critique of quantitative analyses. *The William and Mary Quarterly*, 25(2), 245-258.
- Forbes Magazine. (2011). *CEO compensation*. Retrieved from [http://www.forbes.com/lists/2011/12/ceo-compensation-11\\_David-J-Lesar\\_EBC3.html](http://www.forbes.com/lists/2011/12/ceo-compensation-11_David-J-Lesar_EBC3.html)
- Glanz, J., & Lehren, A. W. (2010, October 23) Use of contractors added to war's chaos in Iraq. *The New York Times*. Retrieved from <http://www.nytimes.com/2010/10/24/world/middleeast/24contractors.html?ref=blackwaterusa&pagewanted=1>
- Greenwald, R. (Director). (2006). *Iraq for sale: The war profiteers* [DVD]. Available from [http://movies.netflix.com/WiMovie/Iraq\\_for\\_Sale\\_The\\_War\\_Profiteers/70055245?trkid=2361637#height1551](http://movies.netflix.com/WiMovie/Iraq_for_Sale_The_War_Profiteers/70055245?trkid=2361637#height1551)
- HalliburtonWatch. (2011). Retrieved from [http://www.halliburtonwatch.org/about\\_hal/chronology.html](http://www.halliburtonwatch.org/about_hal/chronology.html)
- Hensel, H. S., & McClung, R. G. (1944). Profit limitation controls prior to the present war. *Law and Contemporary Problems*, 10(2), 187-217.
- Isenberg, D. (2010, September 9). Strike two on 'just following order' defense. *The Huffington Post*. Retrieved from [http://www.huffingtonpost.com/david-isenberg/strike-two-on-just-follow\\_b\\_711095.html](http://www.huffingtonpost.com/david-isenberg/strike-two-on-just-follow_b_711095.html)
- Knutsen, R. (2010, April 15). US: Senators call for changes to troubled, costly Afghan police training program. *CorpWatch*. Retrieved from <http://www.corpwatch.org/article.php?id=15566>
- Koistined, P. A. (1970). The "industrial-military complex" in historical perspective: The interwar years. *The Journal of American History*, 56, 819-839.
- Lorell, M., Lowell, J., Kennedy, M., & Levaux, H. (2000). *Cheaper, faster, better? Commercial approaches to weapons acquisition*. Santa Monica, CA: RAND.
- National Geographic. (Producer). (2007) *Iraq's Guns for Hire* [DVD]. Available from <http://movies.netflix.com/Movie/National-Geographic-Iraq-s-Guns-for-Hire/70144618#height1049>
- Parker, L. (2007, June 10). What exactly happened that day in Fallujah?. *USA Today*. Retrieved From [http://www.usatoday.com/news/world/iraq/2007-06-10-fallujah-deaths\\_N.htm](http://www.usatoday.com/news/world/iraq/2007-06-10-fallujah-deaths_N.htm)
- Risen, J. (2010, October 20). Efforts to prosecute Blackwater are collapsing. *The New York Times*. Retrieved from <http://www.nytimes.com/2010/10/21/world/21contractors.html>
- Risen, J (2010, August 20). Blackwater reaches deal on U.S. export violations. *The New York*

- Times*. Retrieved from <http://www.nytimes.com/2010/08/21/world/21blackwater.html?ref=blackwaterusa>
- Scahill, J. (2009). *US War Privatization Results in Billions Lost in Fraud, Waste, and Abuse-Report*. Retrieved from [www.commondreams.org](http://www.commondreams.org) website: <http://www.commondreams.org/headline/2009/06/10-5>
- “Stock Information” (2011, May 5). Retrieved from <http://ir.halliburton.com/phoenix.zhtml?c=67605&p=irol-stockquotechart>
- Shahzad, S. S. (2003, August 26). The face of Afghanistan’s resistance. *Asia Times Online*. Retrieved from [http://www.atimes.com/atimes/Central\\_Asia/EH26Ag01.html](http://www.atimes.com/atimes/Central_Asia/EH26Ag01.html)
- Stiglitz, J. E., & Bilmes, L. J. (2008). *Three trillion dollar war: The true cost of the Iraq conflict*. New York, NY: W.W. Norton & Company, Inc.
- U.S. House of Representatives, Commission on Wartime Contracting in Iraq and Afghanistan. (2011). *At what risk?: Correcting over-reliance on contractors in contingency operations*. Retrieved from <http://www.wartimecontracting.gov/index.php>
- U.S. House of Representatives, Subcommittee on National Security and Foreign Affairs. (2010). *World, Inc*. Washington, DC: Retrieved from [http://tierney.house.gov/index.php?option=com\\_content&view=article&id=874:national-security-subcommittee-hearing-are-us-taxpayer-dollars-funding-afghan-warlords-&catid=47:press-archives&Itemid=115](http://tierney.house.gov/index.php?option=com_content&view=article&id=874:national-security-subcommittee-hearing-are-us-taxpayer-dollars-funding-afghan-warlords-&catid=47:press-archives&Itemid=115)
- Udis, B. (1973). The end of overrun: Prospectus for the high technology defense industry and related issues. *The Annals of the American Academy of Political and Social Science*, 406, 59-72.
- Zengrele, P. (2011, January 11). Biden: U.S. could stay in Afghanistan beyond 2014. Retrieved from <http://www.reuters.com/article/2011/01/11/us-afghanistan-biden-idUSTRE7093S220110111>