

## Archived Content

Information identified as archived on the Web is for reference, research or record-keeping purposes. It has not been altered or updated after the date of archiving. Web pages that are archived on the Web are not subject to the Government of Canada Web Standards.

As per the [Communications Policy of the Government of Canada](#), you can request alternate formats on the "[Contact Us](#)" page.

## Information archivée dans le Web

Information archivée dans le Web à des fins de consultation, de recherche ou de tenue de documents. Cette dernière n'a aucunement été modifiée ni mise à jour depuis sa date de mise en archive. Les pages archivées dans le Web ne sont pas assujetties aux normes qui s'appliquent aux sites Web du gouvernement du Canada.

Conformément à la [Politique de communication du gouvernement du Canada](#), vous pouvez demander de recevoir cette information dans tout autre format de rechange à la page « [Contactez-nous](#) ».

CANADIAN FORCES COLLEGE / COLLÈGE DES FORCES CANADIENNES  
CSC 29 / CCEM 29

EXERCISE NEW HORIZONS / EXERCICE NEW HORIZONS

**IS THERE A ROLE FOR CIVILIAN CONTRACTORS ON CANADIAN FORCES DEPLOYED  
OPERATIONS?**

By /par LCol Mackay J.C.F.

*This paper was written by a student attending the Canadian Forces College in fulfilment of one of the requirements of the Course of Studies. The paper is a scholastic document, and thus contains facts and opinions which the author alone considered appropriate and correct for the subject. It does not necessarily reflect the policy or the opinion of any agency, including the Government of Canada and the Canadian Department of National Defence. This paper may not be released, quoted or copied except with the express permission of the Canadian Department of National Defence.*

*La présente étude a été rédigée par un stagiaire du Collège des Forces canadiennes pour satisfaire à l'une des exigences du cours. L'étude est un document qui se rapporte au cours et contient donc des faits et des opinions que seul l'auteur considère appropriés et convenables au sujet. Elle ne reflète pas nécessairement la politique ou l'opinion d'un organisme quelconque, y compris le gouvernement du Canada et le ministère de la Défense nationale du Canada. Il est défendu de diffuser, de citer ou de reproduire cette étude sans la permission expresse du ministère de la Défense nationale.*

## ABSTRACT

This paper will demonstrate that there is a role for civilian contractors on C.F. deployed operations. It will highlight three major issues that need to be addressed by C.F. planners as they develop a new doctrine to facilitate this support capability. It will conclude by making a number of recommendations to resolve these issues. These issues are as follows: how should military planners employ contractors within the modern spectrum of conflict; how do contracted personnel meet the requirements of International Law and finally, how can they best be employed within theatre command and control arrangements. Recommendations are as follows:

- a. Formalize the inclusion of contractor support within the operational planning process;
- b. Maintain strict geographic control of contractor employment along with a limited military redundancy to avoid the blurring of civilians with troops to meet the requirements of International Laws; and
- c. Establish the proper infrastructure and staff at the operational level to plan, control and manage contracted support capabilities.

Throughout the last three hundred years, western military forces have used civilian contractors to provide various forms of logistical support in their campaigns. Armies ranging from 15<sup>th</sup> century Imperial Spain<sup>1</sup> up to the currently deployed Canadian Force in Bosnia<sup>2</sup> have procured support services from civilian contractors. History has shown that as the size of armies and their scope of movement increased so did the logistic requirements to support them. Longer deployments despite advances in transport and technology often outstripped the integral support capabilities of forces to sustain themselves.<sup>3</sup> This meant that nations have often had to turn to commercial means to fill the gap in military logistics to support their campaigns. Historically, contracted non-combatants have been an ad hoc addition to the battlefield. Their employment was not founded on any clear doctrine. For many nations, the general policy followed was “the closer the function came to the sound of battle, the greater the need to have soldiers perform the function because of the greater need for discipline and control.”<sup>4</sup> This ad hoc policy of employing contractors on deployed operations is no longer acceptable. The complexity of the modern battlefield, the laws of armed conflict and requirements for command and control demand that a clear doctrine be developed for successfully employing contractors on future operations.

The aim of this paper is to demonstrate that in the author’s opinion, there is a role for civilian contractors on Canadian Forces (C.F.) deployed operations. First, this essay will outline the key reasons why the Canadian and the U.S. forces are turning to

---

<sup>1</sup> M. Van Creveld, *Supplying War*, (New York: Cambridge University Press, 1977), p. 8.

<sup>2</sup> NDHQ 3350-1 (J4 Log) *Memorandum, Balkans Contractor Support Project (CSP) Review Team – Initial Draft of Findings*, (Ottawa: November 2001), p.1.

<sup>3</sup> R.A. Gabriel and K.S. Metz, *A Short History of War*, Professional Readings in Military Strategy No. 5, Strategic Studies Institute, (Carlisle Barracks: U.S. Army War College, 30 June, 1992), p. 2.

<sup>4</sup> W.W. Epley, *Contracting in War: Civilian Combat Support of Fielded Armies*, U.S. Army Center of Military History, (Washington, D.C.: 1989), p.6.

contractors to help support many of their current deployed operations. Secondly, it will define the term of contractor and the three major types of modern contractor support services that can be provided. Next, the three major issues as selected by the author affecting contracted support to deployed forces will be defined. These issues are as follows: how should military planners employ contractors within the modern spectrum of conflict; how do contracted personnel meet the requirements of International Law and finally, how can they best be employed within theatre command and control arrangements. These issues will be reviewed in turn, primarily within the Canadian context with supporting documentation from the doctrine and experience gained from the U.S military. The paper will conclude with recommendations for successfully employing contractors on future C.F. deployed operations.

Today, modern forces are increasingly employing contractors abroad in support roles previously done by troops. This is in large part due to the fact that the cost of maintaining large peacetime forces for potential conflicts became more difficult for many governments to justify after the Cold War. The subsequent shrinking of military budgets necessitated the reduction of force structures. In particular, the reduction of combat service support infrastructure and troops has led current military planners to re-examine and utilize civilian contractors to support deployed operations. For example, between 1994 and 2000, the Canadian Department of National Defence saw its budget reduced by 23%<sup>5</sup> and its force structure reduced from 80,000 personnel to 60,000 personnel.<sup>6</sup> Subsequent defence budgets have seen a small increase of capital, but little if any was aimed at enhancing logistic capabilities. These budget and manning reductions were carried out despite an increase of overseas operational commitments over the same time - period. Canadian troops have been deployed on over 65 missions since 1990<sup>7</sup> and it is

---

<sup>5</sup> Department of National Defence, *Budget 2000: Defence: Background Facts and Figures*, (Ottawa: DND Canada, 2000), [on-line], <http://www.forces.gc.ca/site/reports/budget/bkgfacts.E.htm>, Accessed 12 Jan 2003.

<sup>6</sup> Department of National Defence, *1994 Defence White Paper*, (Ottawa: DND Canada, 1994), [on-line], <http://www.forces.gc.ca/site/Minister/eng/94wpaper/highlights.e.html>, Accessed 04 Feb 2003.

<sup>7</sup> Department of National Defence, *Budget 2000: Defence: Background Facts and Figures*, (Ottawa: DND Canada, 2000), [on-line], <http://www.forces.gc.ca/site/reports/budget/bkgfacts.E.htm>, Accessed 12 Jan 2003.

acknowledged that many of the personnel hardest hit by this increased tempo have been logistic troops.<sup>8</sup>

U.S. Forces, having faced similar reductions during the nineties, have predominately lead the resurgence of civilian contractors on the battlefield. In the U.S. forces, “three factors have contributed to this trend: deep cuts in uniformed personnel, a push to privatize functions that can be done outside the military and a growing reliance on contractors to maintain increasingly complex weapon systems.”<sup>9</sup> The U.S. Army force structure was reduced from 789,000 troops in 1989 down to approximately 480,000 troops in 2000.<sup>10</sup> Similar to the Canadian Army, the U.S. Army operational tempo was also correspondingly high during the last decade culminating in 1999 with the average soldier facing 130 days a year deployed.<sup>11</sup> In 2000, former U.S. Secretary of Defense Dick Cheney commented on the high tempo of force deployments stating “ Over the last decade, commitments worldwide have gone up by 300 percent, while our military forces have been cut 40 percent.”<sup>12</sup> Over this last decade, contractors as non-combatants were used extensively to support American troops during the Gulf War and on operational deployments such as the Balkans. This use of contractors is not a new trend for U.S. forces as shown by table 1 below.<sup>13</sup>

**Table 1. Civilian Participation in Conflict**

War/Conflict	Civilians	Military	Ratio
American Revolution	1,500(est)	9,000	1:6(est)
Mexican/American	6,000(est)	33,000	1:6(est)
U.S. Civil War	200,000(est)	1 Million	1:5(est)
WW I	85,000	2 Million	1:20
WW II	734,000	5.4 Million	1:7
Korean Conflict	156,000	393,000	1:2.5

<sup>8</sup> Brigadier-General Comtois, *Contractors in Support of Deployed Operations*, Presentation, (Red Bank, New Jersey, 18 March 1999), p. 7.

<sup>9</sup> K.M. Peters, *Civilians at War*, Government Executive Magazine, Volume 28, Issue 7, (Washington, D.C: 01 July 1996), p.1.

<sup>10</sup> J.A. Fortner, *Institutionalizing Contractor Support on the Battlefield*, Army Logistician, Volume 32, Issue 4, (July-August 2000), p. 3.

<sup>11</sup> J.A. Fortner, *Institutionalizing Contractor Support on the Battlefield*, p. 3.

<sup>12</sup> P.J. Rebar, *Contractor Support on the Battlefield*, USAWC Strategy Research Project, (Carlisle Barracks: U.S. Army War College, April 2002), p.6.

<sup>13</sup> P.J. Rebar, *Contractor Support on the Battlefield*, p.2.

Vietnam Conflict	70,000	359,000	1:6
Persian Gulf War 1	5,200	541,000	1:100
Rwanda/Somalia/Haiti	No records kept	N/A	N/A
Balkans	5000-20,000	(Varied) 20,000	Up to 1.5:1

The U.S. has taken the lead in utilizing contractors on deployed operations. They are to date, the only major western force that has developed and published doctrine pertaining to this capability. Canadian forces while currently using contractors on deployments are still formalizing their operational level logistic doctrine. Establishing a viable doctrine for contracted support is key as it “serves as the denominator to link strategy and force structure for the conduct and execution of military operations.”<sup>14</sup> Therefore, this paper will use the current U.S. Army doctrine to define the following terms. U.S. Army doctrine defines a contractor as follows:

“Persons or businesses, to include authorized subcontractors that provide products or services for monetary compensation. A contractor furnishes supplies, services or performs work at a certain price or rate based on the terms of a contract. In a military operation, a contractor may be used to provide life support, construction/engineering support, weapons support and other technical services.”<sup>15</sup>

U.S. Forces have established three types of civilian contractors that can be employed within their doctrine on deployed operations. They are:

- a. Theatre Support Contractors,
- b. External Support Contractors,
- c. System Contractors.<sup>16</sup>

Theatre support contractors are defined as those:

“Civilian contractors who support deployed operational forces under prearranged contracts or contracts awarded from the mission area by contracting officers serving

<sup>14</sup> D.W. Thomas, *Contract Management Strategy for the 21<sup>st</sup> Century*, News From the Front Quarterly, 1<sup>st</sup> Quarter/FY01, U.S. Army Training and Doctrine Command, (Fort Leavenworth: Center For Army Lessons Learned, 2001), p.8.

<sup>15</sup> U.S. Army Publication FM 3-100.2 (100-21), *Contractors on the Battlefield*, Department of the Army, (Washington D.C.: 03 January 2003) p. 1-2.

<sup>16</sup> U.S. Army Publication FM 3-100.21 (100-21), *Contractors on the Battlefield*, p. 1-3.

under the theatre principal authority responsible for contracting (PARC). Theatre support contractors provide goods and services and perform minor construction to meet the immediate needs of operational commanders.”<sup>17</sup>

External support contractors are defined as those contractors who

“Provide support to deployed operational forces that is separate and distinct from either theatre support or support provided by system contractors. They may operate under pre-arranged contracts or contracts awarded during the contingency itself to support the mission. Many U.S. Commands have existing contracts established to provide services on a contingency basis. Examples would be the Transportation Command which provides Civil Reserve Air Fleet and commercial sea lift to support a theatre”<sup>18</sup>.

System contractors are defined as those contractors who:

“ Provide specific support to material systems throughout their life cycle during peace time and contingency operations. These systems include but are not limited to, vehicles, weapon systems, aircraft, command and control infrastructure and communications equipment.”<sup>19</sup>

This growth of contracted support has in turn raised three operational issues that question whether or not contractors can be successful in supporting deployed forces on operations.

The first issue to be examined is how can military planners effectively employ contractors on the modern battlefield. Opponents of contractor use claim the risk of relying on civilian services to support operations is too great and will lead to mission failure. They state three major arguments against planning in their use. First is that contractors are replacing not augmenting military skills and capabilities.<sup>20</sup> This in turn has lead to a force capability gap that cannot be quickly fixed. Secondly, the contractor will be a force protection burden, especially in a non-linear battlefield environment.<sup>21</sup> The last argument is that civilian logistics support belongs primarily at the strategic level and military logistics belongs at the operational level and below. In particular, it is too

---

<sup>17</sup> U.S. Army Publication FM 3-100.21 (100-21), *Contractors on the Battlefield*, p. 1-3.

<sup>18</sup> U.S. Army Publication FM 3-100.21 (100-21), *Contractors on the Battlefield*, p. 1-3.

<sup>19</sup> U.S. Army Publication FM 3-100.21 (100-21), *Contractors on the Battlefield*, p. 1-3.

<sup>20</sup> E. Orsini and G. Bublit, *Contractors on the Battlefield: Risks on the Road Ahead?* Army Logistician, Volume 31, Issue 1, (Jan-Feb 1999), p.130.

<sup>21</sup> G.L. Campbell, *Contractors on the Battlefield: The Ethics of Paying Civilians to Enter Harms Way and Requiring Soldiers to Depend upon Them*, Joint Services Conference on Professional Ethics 2000, (Springfield, Virginia, 27-28 Jan: 2000), p. 3.



difficult to plan and integrate contracted and military support at the operational level.<sup>22</sup> In summary, these issues make it too high of a risk for planners to use contractors on deployed operations

The solution to the above arguments rests in how military planners determine if a contractor can be utilized for a particular mission. Contractors are not soldiers and cannot be specifically or deliberately exposed to the same risks as soldiers.<sup>23</sup> The C.F. Spectrum of Conflict & Continuum of Operations depicts today's conflicts as ranging from operations other than war (OOTW) to peace support operations (United Nations Chapter 7) through to war fighting.<sup>24</sup> This spectrum is further complicated by some recent operations being conducted on a non-linear battlefield under conditions described by U.S. Marine General Krulak as the three- block war. This environment sees combat operations, peace stability operations and humanitarian operations all being conducted at the same time within a three-block radius.<sup>25</sup> Using contractors in this complex battlefield environment without a clear doctrine and estimate process could lead to mission failure. Planners must understand the above contractor definitions and what capabilities and /or liabilities they can bring to an operation. This must then be applied to the potential employment environment and an estimate made as to suitability for employment. This estimate will determine whether the contractor will be a force multiplier or a hazard for a mission.

Canadian doctrine is looking towards reducing the risk of contractors by using Combat Service Support (CSS) troops on initial deployments with a view to replacing them potentially with contractors if the commitment is to be long term and the threat level low enough to suitably employ them.<sup>26</sup> The recent operation in Afghanistan, Operation APOLLO, conducted by the Canadian forces demonstrated the need for CSS

---

<sup>22</sup> R. Maynard, *Army Logistics Beyond Repair: Can Contracting Out Save the Day?* (Toronto: Canadian Forces College, 1999), p. 9.

<sup>23</sup> J.A. Fortner, *Managing, Deploying, Sustaining and Protecting Contractors on the Battlefield*, *Army Logistician*, Volume 32, Issue 5, (Sep-Oct 2000), p. 4.

<sup>24</sup> LGen M.K. Jeffery, Chief of Land Staff, *The Army Strategy*, Presentation to the Land Staff, (Ottawa: Department of National Defence, April 2002) Slide 12.

<sup>25</sup> R.F. Hahn and B. Jezior, *Urban Warfare and the Urban Warfighter of 2025*, *Parameters*, (Fort Leavenworth: U.S. Army War College Quarterly – Summer, 1999), p.2.

<sup>26</sup> J4 Logistics 3350-1 *Memorandum, Balkans Contractor Support Project Review Team – Initial Draft of Findings*, National Defence Headquarters, (Ottawa: November 2001), p. 1.

troops to initially sustain their forces in an increasingly non-linear threat environment.<sup>27</sup> As a theatre matures and the threat level subsides, the determination of whether or not to turn over various CSS responsibilities to a contractor becomes a critical issue.

The C.F. operational planning process is perfectly suitable for incorporating contractor support options to determine whether or not they are operationally feasible. U.S. military doctrine directs that commanders use the “Military Decision-Making Process (MDMP) in planning for contractor support.”<sup>28</sup> Canadian doctrine has not yet been promulgated with regard to planning and deploying with civilian contractors. However, similar to the U.S. Army approach, it is recommended that planning for contractor support be incorporated within the C.F. staff operational planning process. This inclusion will ensure that all support options are considered for an operation. J4 staff planning factors such as why your employing a contractor, how best to employ them, what exactly will they be doing along with when and where they will be doing it must be answered during this process.

Within the estimate sequence, a thorough review of the possible threats to a contractor must be completed. This includes the standard factors of climate, terrain, enemy forces and friendly forces that the contractor could be dealing with. This is similar to the U.S. military’s use of describing the military environment via the planning factors of mission, enemy, terrain, troops and time (METT-T).<sup>29</sup> The next step to analyze is what type of the three kinds of contractors might be required to augment a force and are suitable for the mission environment. This analysis must look at their corporate capabilities, command and control arrangements and contract type to be used. Next, implications on their use reference host nation legalities and possible lead nation/coalition arrangements must be taken into account as well.

Lastly, the planners must look at the impact of contractor support being degraded or unavailable in terms of the commanders critical support requirements and force protection requirements. Contingency arrangements to replace contracted personnel with military personnel must be built into the plan to ensure ongoing support to a mission.

---

<sup>27</sup> 3 PPCLI, *OP APOLLO Post Operation Report-Rotation 0*, Director Land Force Readiness, Chief of Land Staff, National Defence Headquarters, (Ottawa: April 2002), p.16.

<sup>28</sup> U.S. Army Publication FM 3-100.21 (100-21), *Contractors on the Battlefield*, p. 2-4.

The concept of using contractors to replace CSS troops in order that they can be ready to move on to other missions is viable. However, contractors are not a simple solution to every operation. The use of contractors within the spectrum of conflict must be strictly applied and controlled on a case basis within the planning process. It is the author's opinion that within the CF defined Spectrum of Conflict and Continuum of Operations that contractors should only be considered for deployment at the tactical level within a stable OOTW environment. A stable OOTW environment can be defined as one with a low threat level to the forces in place. If the OOTW environment threat level increases and is sustained then an estimate with the view to potentially re-deploying the contractors and replacing them with CSS troops should be done. Any conflict beyond the OOTW spectrum and into the peace enforcement / war fighting spectrum should see theatre and external contractors employed as per U.S. doctrine at the echelon above Division or Corps levels or higher within a secure rear area.<sup>30</sup> Employment of theatre or external contractors is too high of a risk at the tactical level in the conflict spectrum beyond OOTW. Exceptions to this rule would be the potentially smaller numbers of systems contractors working within the tactical echelons. However, it is critical to maintain a military capability to support battlefield systems at the tactical level. This redundancy is needed to conduct support tasks that systems contractors are either unable or unsuitable to carryout.<sup>31</sup>

Employment within an asymmetric threat, non-linear theatre in operations beyond OOTW is feasible, but comes with a heavy price in terms of movement and security. The authors experience in command of a National Support Unit immediately after the September 11<sup>th</sup> terrorist attacks, highlight the restrictions that an asymmetric threat poses to contractor-supported operations. The unit was comprised of both contractors and troops in Bosnia during the heightened threat period. In this environment, contractors will require armed escort when moving between locations and security within designated camps. This security task will indirectly cause their employment to become more and more difficult as troop availability to perform these functions becomes strained. This in

---

<sup>29</sup> D. L. Young, *Planning: The Key to Contractors on the Battlefield*, Army Logistician, Volume 31, Issue 3, (May/June 99), p.10.

<sup>30</sup> U.S. Army Publication FM 3-100.21 (100-21), *Contractors on the Battlefield*, p. 2-10.

<sup>31</sup> U.S. Army Publication FM 3-100.21 (100-21), *Contractors on the Battlefield*, p. 2-11.

turn will result in a more inflexible and static performance by the contractor in carrying out his assigned functions. It will require constant review to see if troops are a better option to carry out support tasks within this asymmetric threat environment.

In summary, utilizing the operational planning process to control where contractors fit into the battlefield architecture is the key to success. Following this process will resolve the issues raised by the critics. Using the Canadian Forces concept of using military CSS troops on the start up and initial follow on rotations will ensure that the tactical level support capability is retained. It will ensure theatre or external contractors do not replace CSS troops and potentially evolve to create a capability gap within force structures. Secondly, proper planning will address the force protection issue. Strict control on where to employ contractors within the spectrum of conflict will reduce the security burden on the supported force. The planning process will dictate where and to what level contractor support will be possible in a theatre. All facets of contractor support must be planned for in detail. How contractors get to a theatre, their location in theatre, their support requirements and force protection needs all have to be addressed in the planning process.<sup>32</sup> This planning will allow CSS staff to plan at the operational level and maintain flexibility of support on operations.

The second major issue concerns how employing contractors on deployed operations meets the requirements of International Law and Laws of Armed Conflict. Critics point out that the role of the contractor as a non-combatant has evolved to the point where they are working side by side with soldiers in operational units at the tactical level of conflict.<sup>33</sup> In Operation Desert Storm, “contractor personnel deployed almost at the same time as the first U.S. troops and provided support mainly at echelons above corps. Some contractors field service representatives and contact teams were used in the corps and division area and a few went into Iraq and Kuwait with combat elements.”<sup>34</sup>

---

<sup>32</sup> S. Hamontree, *Contractors on the Battlefield: Plan Now or Pay Later*, News From the Front, September/October 2002 Issue, U.S. Army Training and Doctrine Command, (Fort Leavenworth: Center For Army Lessons Learned, 2002), p.4.

<sup>33</sup> A.L. Rand, A.R. William, J.L. Kang, *Contractors On The Battlefield: Special Legal Challenges*, Wiley, Rein and Fielding Law Firm Journal, (Washington D.C.: April, 2003), p.1.

<sup>34</sup> E.A. Orsini and G.T. Bublitz, *Contractors on the Battlefield: Risks on the Road Ahead?* p. 130-131.

These systems contractors provided maintenance support for the M1 Tank, M2 Bradley, OH58 Helicopter and Patriot Missile system.<sup>35</sup>

This blurred employment of civilians accompanying the force, on a complex and changing battlefield against enemies who potentially will not differentiate between combatants and non-combatants raises valid concerns of the legality of contractor employment. Critics have pointed out instances where contractors accompanying the force have refused to support a mission, thereby jeopardizing its success.<sup>36</sup> Unlike soldiers with their contract of unlimited liability, commanders cannot force contractors to carry out their duties in harms way.<sup>37</sup> Conversely, a civilian contractor cannot be armed and used as a soldier in accordance with the Hague Convention (HIVR Article 13) and the Geneva Convention (Article 4 A [4])<sup>38</sup> as they will lose their protected status and become legitimate targets. They will also be liable to charges and trial as unlawful combatants.<sup>39</sup> Legally, commanders must abide by the terms of International Law and by the applicable written corporate contract. This issue in turn, critics say, leads to the requirement for commanders to plan for burdensome force protection measures on behalf of the contractors.<sup>40</sup>

The use of contractors must be carefully planned in order to avoid the blurring of their non-combatant status. As stated earlier, theater and external contractors should only be employed at echelons above division in a stable, low threat environment. The major issue is how to deal with systems contractors who can be employed down at the tactical level. The key for planners is to ensure they maintain a clear distinction between troops and contractors, particularly when employing them together in the tactical area. The

---

<sup>35</sup> M. A. Zebra, *Contractor Support: Will the Army's Continued Reliance on Contractors Negatively Impact Future Military Operations?* (Fort Leavenworth, Kansas: 1999), p. 34.

<sup>36</sup> K.M. Nelson, *Contractors on the Battlefield: Force Multipliers or Force Dividers?* U.S. Air Command and Staff College Paper, (Maxwell Air Force Base Air University: April 2000), p. 12.

<sup>37</sup> I.K. Garcia-Perez, *Contractors on the Battlefield in the 21<sup>st</sup> Century*, Army Logistician, Volume 31, Issue 6, (Nov-Dec 1999), p. 4.

<sup>38</sup> B-GG-005-027/AF-021, *The Law of Armed Conflict at the Operational and Tactical Level*, Directorate of Law & Training, Office of the Judge Advocate General, 2001 Edition, National Defence Headquarters, Ottawa, Canada, p. 3-4.

<sup>39</sup> S.J. Zamparelli, *Contractors on the Battlefield: What Have We Signed Up For?* U.S. Air War College Research Report, (Maxwell Air Force Base Air University: March 1999), p. 26.

<sup>40</sup> J.A. Fortner, *Managing, Deploying, Sustaining and Protecting Contractors on the Battlefield*, Army Logistician, Volume 32, Issue 5, (Sep-Oct 2000), p. 5.

Hague Convention clearly differentiates civilians accompanying the force from military personnel in Customary Law. The Qualifications of Belligerents in Article One states:

“The laws, rights and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

1. To be commanded by a person responsible for his subordinates;
2. To have a fixed distinctive emblem recognizable at a distance;
3. To carry arms openly; and
4. To conduct their operations in accordance with the laws and customs of war.”<sup>41</sup>

The Hague Convention defines civilians accompanying the force as:

“Persons who accompany the armed forces without actually being members thereof (such as civilian members of military aircraft crews, supply contractors, members of labour units or of services responsible for the welfare of the armed forces), provided that they have received authorization from the armed forces which they accompany, are non-combatants. They risk, however, being attacked as part of a legitimate target. If captured, they are entitled to PW status.”<sup>42</sup>

In essence, “contractors cannot be targeted deliberately for military action but the function they are supporting can be. Thus if the function is targeted and contractor personnel are killed or wounded, the law of land warfare regards them as legitimate collateral casualties.”<sup>43</sup> This is highlighted within Geneva Convention (API, Article 51[7]), which states:

“ For targeting purposes, the presence of civilians who are authorized to accompany the armed forces without actually being members thereof (such as crews of military aircraft, war correspondents, supply contractors or members of services responsible for the welfare of the armed forces) does not render a legitimate target immune from attack. Such persons run the risk of being attacked as part of a legitimate target.”<sup>44</sup>

If a contractor is captured, Article 3 of the Hague Convention stipulates that the armed forces of belligerent parties may consist of combatants and non-combatants and that in the case of capture, both have the right to be treated as prisoners of war.<sup>45</sup>

---

<sup>41</sup> B-GG-005-027/AF-021, *Law of Armed Conflict at the Operational and Tactical Level*, p. 6.

<sup>42</sup> B-GG-005-027/AF-021, *Law of Armed Conflict at the Operational and Tactical Level*, p. 3-4.

<sup>43</sup> J.A. Fortner, *Managing, Deploying, Sustaining and Protecting Contractors on the Battlefield*, p. 5.

<sup>44</sup> B-GG-005-027/AF-021, *Law of Armed Conflict at the Operational and Tactical Level*, p. 4-5.

<sup>44</sup> B-GG-005-027/AF-021, *Law of Armed Conflict at the Operational and Tactical Level*, p. 6.

<sup>45</sup> B-GG-005-027/AF-021, *Law of Armed Conflict at the Operational and Tactical Level*, p. 6.

Therefore, if there is confusion as to the rights of civilians accompanying the force the initial default is to treat them as prisoners of war until it is substantiated by further investigation.

Planners can avoid system contractor casualties and meet the requirements of International Law through two approaches. The first approach is to establish procedures that supported systems are returned to the rear area as far back as feasible for maintenance. Formation Tactics, Techniques and Procedures would need to be developed to reflect the insertion of contractors into the current Canadian Land Engineering Maintenance System (LEMS) to reflect this requirement. If the tactical situation will not allow that to occur then contractors must be sent forward.

Before that occurs the following conditions must be met to minimize the threat of harm to contracted personnel:

1. All contractor personnel must be in civilian clothes;
  2. All contractor personnel must carry identification declaring them as non-combatants accompanying the force in accordance with the Geneva Convention;
  3. Contractor personnel will not be armed;
  4. Contractors in location will not carry out any hostilities and perform contracted maintenance tasks only;
  5. Commanders are responsible for protecting contracted personnel;
  6. Contractors will return to the rear echelons as soon as practicable;
  7. That the contract language is clear in outlining the scope of work and all inherent risks and liabilities in performing that work at the tactical level; and
  8. That military redundancy in that capability resides within the force to carry out subject maintenance if a contractor refuses to carry out any assigned task.
- Mission essential equipment cannot be 100 percent reliant on contracted support.

In summary, the legal concerns raised by critics can be mitigated. First, planners must ensure that they have established a military capability to conduct system contractor support tasks if required at the tactical level. The concept is that contractors augment the force – not replace it. Maintaining a theatre balance of support troops and contractors will allow planners redundancy and flexibility in which to support their commander's mission. Secondly, if systems contractors must be employed in a tactical area, the above listed guidelines must be adhered to as a minimum. These guidelines will minimize the risk of a contractor taking casualties and reduce their subsequent impact on operational support requirements to key systems. Commanders in turn will meet the conditions as established by International Law on the proper employment of civilians on the battlefield.

The third major issue deals with how to effectively command and control contractors in an operational theatre. Critics state that “the army does not command and control contractors in the sense that it commands and controls military units and soldiers”<sup>46</sup> The contractors are managed through established contracts which opponents argue can restrict or deny a commander flexibility in planning support to his force.<sup>47</sup> This is compounded by the proliferation of contractors and contract officers throughout an area of operations. It makes coordination and integration of support planning extremely difficult for planners. Desert Storm saw the employment of over 9000 contractors of different types into theatre by the mission's completion. One critic stated, “It was a good thing the war was short-lived. Command and control of so many contractors could have posed real problems.”<sup>48</sup> Another challenge for commanders is how can contractor personnel be effectively disciplined? Civilians accompanying the force are not soldiers and cannot be disciplined under the Service Code of Discipline. Thus violations of security, accountability and poor quality of work by contractors could lead to mission failure.

---

<sup>46</sup> J.A. Fortner, *Managing, Deploying, Sustaining and Protecting Contractors on the Battlefield*, Army Logistician, Volume 32, Issue 5, (Sep-Oct 2000), p1.

<sup>47</sup> L.A. Castillo, *Waging War with Civilians: Asking the Unanswered Questions*, Aerospace Power Journal, Volume XIV, No. 3, (Fall: 2000), p. 3.

<sup>48</sup> D. L. Young, *Planning: The Key to Contractors on the Battlefield*, Army Logistician, Volume 31, Issue 3, (May/June 99), p.2.

<sup>48</sup> J4 Logistics 3350-1 *Memorandum, Balkans Contractor Support Project Review Team – Initial Draft of Findings*, National Defence Headquarters, (Ottawa: November 2001), p 4.



The most effective means to manage contractors is to ensure that they are considered and then subsequently involved as security permits, in the planning process. Understanding the types of contractors available and developing a suitable contract to manage them properly will resolve the majority of issues raised by critics. Upon making the decision to utilize contractors, planners must look in detail at the areas of visibility, control and specific types of contracts available.<sup>49</sup>

Visibility allows a commander to maintain situational awareness of contractor personnel, equipment and operations within his area of operations.<sup>50</sup> The contractor must be carefully tasked and supervised to ensure contract service standards are met.

There are three major areas in which to maintain contractor visibility. They are:

1. Performance;
2. Cost controls and funds management; and
3. Coordination, flexibility and responsiveness.<sup>51</sup>

Canadian doctrine is currently being designed to establish contract management and visibility at two levels. The newly created Joint Support Group Headquarters (JSG) situated at the operational level has been tasked to develop the Canadian Forces Contractor Augmentation Program (CANCAP). This program will see a contractor under a multi-year contract be embedded into the JSG HQ. CANCAP will augment CSS forces through the provision of contractor support services.<sup>52</sup> This embedding will allow joint planning to occur in order to mobilize and deploy a broad range of services to overseas contingents. The concept is to replace deployed military personnel once a theatre is stable and in some cases if it is benign, deploy on the initial rotation.

This headquarters will facilitate deliberate or immediate planning at the operational level with a designated contractor. Every contractor deployment will be

---

<sup>49</sup> J.A. Fortner, *Managing, Deploying, Sustaining and Protecting Contractors on the Battlefield*, p.2.

<sup>50</sup> J.A. Fortner, *Managing, Deploying, Sustaining and Protecting Contractors on the Battlefield*, p.2.

<sup>51</sup> G. Cahlick, *Army of Contractors*, Government Executive Magazine, Volume 34, Issue 2, (Washington D.C., 01 February 2002), [on-line], <http://www.govexec.com/features/0202/0202s5.htm>, Accessed 15 January 2003.

mission specific with its own contract. Contracted support will be included into the operational level service support annex and/or administrative order as applicable. The intent is to unify the management of contractors and allow coordination of all contracted capabilities in support of the commander's plan. Visibility in theatre will consist of contract officers and NCO's who will monitor quality assurance, expenditures and contractor responsiveness. Contract officers will be sanctioned to adjust contractual problems with the contractor as they arise. This process will allow commanders to include contractors in the campaign planning process along with the flexibility to quickly adjust support plans as mission's change.

The disciplinary issues raised can be broken down into in two major areas, contractual accountability and personal accountability. The military quality assurance personnel in theatre can easily deal with issues pertaining to contractual shortfalls. Penalties for not living up to the terms of a service can be built into a mission contract. The real problem lies in how contractors can be held accountable for criminal actions. Unlike soldiers, contractors cannot be held to the terms provided under the code of service discipline. Contractors will not as a rule, always be covered by a Status of Forces Agreement (SOFA). This could result in civilian employees being detained under the jurisdiction of the nation their serving in<sup>53</sup>. To facilitate legal action the roles and responsibilities of both parties must be documented and communicated clearly to both organizations. The contract can be written to include a code of conduct and specify legal actions to be taken for those who abuse it.

Pending on the situation, the C.F. currently sees the civilian contractor either being detained by the host nation or being removed from theatre to possibly face the applicable criminal/civil charges back in Canada. What Canada requires is a federal law similar to the U.S. Military Extraterritorial Jurisdiction Act “ which permits the prosecution of civilians who, while employed by or accompanying the armed forces overseas, commit certain crimes. Generally, the crimes covered are any federal –level

---

<sup>52</sup> J4 Logistics 3350-1 Memorandum, *Balkans Contractor Support Project Review Team – Initial Draft of Findings*, National Defence Headquarters, (Ottawa: November 2001), p. 4.

<sup>53</sup> M. A. Zybura, *Contractor Support: Will the Army's Continued Reliance on Contractors Negatively Impact Future Military Operations?* p.12.

criminal offense.”<sup>54</sup> Using legal input during the planning process for each mission will protect commanders from a lack of discipline from a contracted workforce. It will also provide a commander with the contract capability to penalize or remove contractors who fail to provide the required support.

One of the key tools in providing planners with a mechanism to obtain the type of support required on a mission is the type of contract awarded. A contract is “an oral or written agreement between two or more persons.”<sup>55</sup> It has to be a comprehensive yet flexible document in order to be effective. A main component to this document that can be used to control a contractor is the method of payment for services rendered. The U.S. Army utilizes many types of contracts with contractors but prefers a cost-plus type contract for support to deployed operations.<sup>56</sup> The C.F. currently utilizes a fixed firm price styled contract with its contractor in Bosnia. Fixed firm price contracts are based on a highly structured and detailed statement of work (SOW) that dictates the standard what, when, where and how services are to be done. Payment of services is locked into services being rigidly adhered to as depicted in the SOW. Cost plus is a more flexible contract that is based on a less defined SOW and pays a base fee and award fee. This type of contract is favoured for use by the Australians<sup>57</sup> and for future contractor deployed services by the Canadian Forces<sup>58</sup>. Australian Defence officials have agreed that the U.S. cost plus style contract is preferred to a fixed firm price contract as its impossible to write a detailed fixed services contract that will allow the flexibility to accomplish support for a deployed mission.<sup>59</sup> Canadian Defence officials are looking at moving to a cost style contract in lieu of their experiences in the Balkans with a fixed firm price contract. It was found that fixed firm price measures are open to

---

<sup>54</sup> U.S. Army Publication FM 3-100.21 (100-21), *Contractors on the Battlefield*, p 4-12.

<sup>55</sup> D.F. Kellerman, Chief Editor, *The International Webster New Encyclopedic Dictionary*, The English Language Institute of America, (Chicago: 1975), p. 221.

<sup>56</sup> Directorate of Industry, *Defence and Industry Study Course, Managing Contractor Support to Operations*, Report Prepared for the Australian Defense Headquarters, (New South Wales: November, 1999) p.24.

<sup>57</sup> Directorate of Industry, *Defence and Industry Study Course, Managing Contractor Support to Operations*, p.24.

<sup>58</sup> J4 Logistics 3350-1, *Memorandum, Balkans Contractor Support Project Review Team – Initial Draft Of Finding-Survey Questionnaire*, National Defence Headquarters, (Ottawa: November 2001), p.2-9.

<sup>59</sup> Directorate of Industry, *Defence and Industry Study Course, Managing Contractor Support to Operations*, p.21.

interpretations, dispute, and undermine the flexibility required to conduct support services.<sup>60</sup>

In summary, the arguments raised by critics of commanding and controlling contractors can be resolved. Including contractors into the planning process early, establishing clear accountability terms within a contract and utilizing a flexible payment method such as cost plus will allow planners to control contractors with both visibility and flexibility.

In conclusion, this paper has demonstrated that there is a role for civilian contractors on Canadian Forces deployed operations. The growing trend to utilize contractors has led critics to identify three areas of issues that left unresolved could jeopardize support to future missions. These issues identified within this paper can all be either resolved or suitably mitigated by following the recommendations.

The first recommendation is the requirement to develop new CSS doctrine and to formalize contractor support into the operational planning process. Planners must use the operational planning process with the stated contractor definitions and factors in order to accurately employ them within the modern spectrum of conflict. Doctrine must develop new tactics, techniques and procedures for accommodating the different types of contractors that could be employed in future echelon locations in support of a deployed force.

Secondly, the inclusion of contractor support into the planning process will also ensure that the legal issues are dealt with in accordance with the requirements of International Laws. These laws can be violated if doctrine and employment measures are not clearly marked out. Planners must ensure that contractors are properly employed and controlled within the theatre of operations to avoid the blurring of soldiers with non-combatants in a theatre of operations. The careful placement of the right type of contractors into theatre at the right echelon location will greatly reduce the risks of

---

<sup>60</sup> J4 Logistics 3350-1, *Memorandum, Balkans Contractor Support Project Review Team – Initial Draft Of Finding-Survey Questionnaire*, National Defence Headquarters, (Ottawa: November 2001), p.2-9.

violating international laws. In particular, ensuring those deployed forces have a built in degree of redundancy at the tactical level to replace systems contractors will further lessen the risks of contractor employment for future commanders.

Finally, control of contractors must be established through the creation of staff and infrastructure at the operational headquarters level to ensure that future contract frame-works are validated and all possible control methods are in place. The Canadian concept of a JSG HQ with an embedded contractor capability should prove highly effective. The conduct of deliberate or crisis planning along side a contractor utilizing the operational planning process will ensure that effective control is established. The selection of contract terms that will dictate visibility, a code of conduct and methods of payment will ensure contractors are held accountable. This in turn will ensure the provision of service by a contractor and flexibility to the supported commander

Civilian contractors have been used to support armed forces throughout the last three hundred years of conflict. There is clearly a role for them to support military operations. Now is the perfect time to examine and study in-depth the role of the contractor within the C.F. As contracted support to deployed operations continues to grow, so does the need to effectively control and manage it. The complexities of the modern battlefield and terms of International Law requires that civilians accompanying the force be planned, integrated and coordinated at the operational level. Formalization of the contracted support concept into the operational planning process by CSS staff is critical to this capabilities future success. This will ensure that contractors will have a role as force multipliers to the C.F. on future overseas missions.

## **BIBLIOGRAPHY**

Australia, Directorate of Industry, *Managing Contractor Support to Operations*, Defence and Industry Study Course Report, Prepared for the Australian Defence Headquarters, New South Wales: November, 1999.

Cahlick, G. *Army of Contractors*, Government Executive Magazine, Volume 34, Issue 2, Washington D.C. February, 2002.

Campbell, G.L. *Contractors on the Battlefield: The Ethics of Paying Civilians to Enter Harms Way and Requiring Soldiers to Depend Upon Them*, Joint Services Conference on Professional Ethics 2000, Springfield, Virginia, 27-28 January, 2000.

Canada, Department of National Defence Memorandum, 3136-2, *Balkans Contractor Support Project (CSP) Review Team – Initial Draft of Findings*, Ottawa, November, 2001.

Canada, Department of National Defence, *Budget 2000: Defence: Background Facts and Figures*, Ottawa, 2000.

Canada, Department of National Defence, B-GG-005-027/AF-021, *The Law of Armed Conflict at the Operational and Tactical Level*, Directorate of Law and Training, Office of the Judge Advocate General, Ottawa, 2001.

Canada, Department of National Defence, *1994 White Paper*, Ottawa, 1994.

Canada, Department of National Defence, *3 PPCLI OP APOLLO Post Operation Report – Rotation 0*, Directorate Land Force Readiness, Chief of Land Staff, April 2002.

Castillo, L.A. *Waging War With Civilians: Asking the Unanswered Questions*, Aerospace Power Journal, Volume XIV, No.3, Fall, 2003.

Comtois, J.M., *Contractors in Support of Deployed Operations*, Director General Management Renewal Services, Presentation to the U.S. Army Material Command LOGCAP Worldwide Requirements Conference, Red Bank, New Jersey, March 18, 1999.

Epley, W.W. *Contracting in War: Civilian Combat Support of Fielded Armies*, U.S. Army Center of Military History Paper, Washington D.C., 1989.

Fortner, J.A. *Institutionalizing Contractor Support on the Battlefield*, Army Logistician, Volume 32, Issue 4, July- August, 2000.

Fortner, J.A. *Managing, Deploying, Sustaining and Protecting Contractors on the Battlefield*, Army Logistician, Volume 32, Issue 5, September- October, 2000.

Gabriel, R.A. and Metz, K.S. *A Short History of War*, Professional Readings in Military Strategy No. 5, Strategic Studies Institute, U.S. Army War College, Carlisle Barracks, 30 June, 1992.

Garcia-Perez, I.K. *Contractors on the Battlefield in the 21<sup>st</sup> Century*, Army Logistician, Volume 31, Issue 6, November- December, 1999.

Hahn R.F. and Jezior, B. *Urban Warfare and the Urban Warfighter of 2025*, Parameters, U.S. Army War College Quarterly, Summer, 1999.

Hamontree, S. *Contractors on the Battlefield: Plan Now or Pay Later*, News From the Front Quarterly, Center for Army Lessons Learned, U.S. Army Training and Doctrine Command, Fort Leavenworth, September/October, 2002.

Jeffery, M.K. LGen, Chief of Land Staff, *The Army Strategy*, Presentation to the Land Staff, Ottawa, April, 2002.

Kellerman, D.F., Chief Editor, *The International Webster New Encyclopedic Dictionary*, The English Language Institute of America, Chicago, 1975.

Orsini, E. and Bublitz, G. *Contractors on the Battlefield: Risks on the Road Ahead?* Army Logistician, Volume 31, Issue 1, January- February, 1999.

Maynard, R. *Army Logistics Beyond Repair: Can Contracting Out Save The Day?* AMSC 2 Paper, Canadian Forces College, Toronto, 1999.

Nelson, K.M. *Contractors on the Battlefield: Force Multipliers or Force Dividers?* U.S. Air Command and Staff College Paper, Maxwell Air Force Base, April, 2000.

Peters, K.M., *Civilians at War*, Government Executive Magazine, Volume 28, Issue 7, Washington D.C., 01 July, 1996.

Rand, A.L., William, A.R. and Kang, J.L. *Contractors on the Battlefield: Special Legal Challenges*, Wiley, Rein and Fielding Law Firm Journal, Washington D.C. April, 2003.

Rebar, P.J., *Contractor Support on the Battlefield*, USAWC Strategy Research Project, U.S. Army War College, Carlisle Barracks, April, 2002.

Thomas, D.W. *Contract Management Strategy for the 21<sup>st</sup> Century*, News From the Front Quarterly, 1<sup>st</sup> Quarterly/FY01, U.S. Army Training and Doctrine Command, Center for Army Lessons Learned, Fort Leavenworth, 2001.

U.S. Army Publication FM 3 –100.2 (100-21), *Contractors on the Battlefield*, Department of the Army, Washington D.C., 03 January, 2003.

Young, D.L. *Planning: The Key to Contractors on the Battlefield*, Army Logistician, Volume 31, Issue 3, May-June, 1999.

Van Creveld, M. *Supplying War*, New York: Cambridge University Press, 1977.

Zamparelli, S.J. *Contractors on the Battlefield: What Have We Signed Up For?* U.S. Air War College Research Report, Maxwell Air Force Base, March, 1996.

Zybura, M.A. *Contractor Support: Will the Army's Continued Reliance on Contractors Negatively Impact Future Military Operations?* U.S. Command and General Staff College, Fort Leavenworth, 1999.