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CANADIAN FORCES COLLEGE / COLLÈGE DES FORCES CANADIENNES

CSC 32 / CCEM 32

EXERCISE NEW HORIZONS

**CIVILIAN CONTRACTORS ON DEPLOYED OPERATIONS:
AN ENABLER FOR THE CANADIAN FORCES**

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ABSTRACT

Contractors have been used in varying methods by military forces ever since the 16th Century. The U.S. has been the largest employer of contractors on deployed operations and the CF in comparison is still in the early stages. Due to a variety of reasons, the most recent endeavour for the CF is the Canadian Contractor Augmentation Program (CANCAP).

This paper will demonstrate that civilian contractors on deployed operations will not replace military capabilities but will rather provide an enabler to the CF. It will address some of the history behind the use of contractors and why militaries are relying on the support of contractors on deployed operations. It will analyze two issues, namely the legal implications and the command and control of civilian contractors and take a short examination of the costs associated with contractors will then be done. Lastly, the paper will conclude with the following recommendations that the CF should consider in regards to the employment of contractors on operations:

- Some emphasis must be placed on contractor training for our future leaders.
- The CF should be developing a centre of excellence for contracting on deployed operations.
- Additional research by the legal community both nationally and internationally needs to be expedited to confirm, redefine or modify the status of non-combatants taking into consideration the evolution of contractors on the battlefield.

Now, more than ever, the Canadian Forces (CF) is seeking innovative solutions to meet growing operational commitments abroad. The Canadian Forces Contractor Augmentation Program (CANCAP) has been a true success story by permitting our uniformed personnel to focus on their core military tasks, while our CANCAP team members provide the more routine support. This new partnership with industry represents the future of a growing undertaking with the private sector.¹

***Colonel Denis Bouchard
Commander
Joint Support Group***

In June 1999, the Deputy Chief of Defence Staff (DCDS) initiated a project (Bosnia Rationalization) to review the CF Logistics, Engineering and Communication Information Systems (CIS) activities in the Balkans. This initial project called the Contractor Support Program (CSP) was specific to the CF commitment to Bosnia. The objective was to mitigate the adverse impact on military personnel caused by the high operational tempo.² The CF had been involved in more operations than any other time since the Korean War. In the 41 years between 1948 and 1989, the Forces were involved in 25 operations; in the 1990s it was involved in 65 operations. Meanwhile, the Forces had been reduced from 87,000 members in 1989 to the current level of 60,000.³ The DCDS further articulated in his article, the situation which the CF found itself. The CF are known world-wide for their capabilities and experience and "where we are finding the largest stretch is not necessarily with the front line soldiers, sailors and Air Force

¹ LCol A. Morrow, "CANCAP – The Changing Face of Logistics Support to the Canadian Forces", *The Canadian Army Journal*, (Ottawa: DND, Summer 2005), 74.

² Department of National Defence, J4 Logistics Doctrine, *Contractors in Support of Deployed Operations - Balkans Rationalization Project*, (Ottawa: DND, October 1999), 1.

³ General Maurice Baril, "Stretched To Far?", *Maple Leaf*, Volume 3, Issue 6, (Ottawa: DND, Feb 2000), 4.

personnel, but rather in the specialist trades like Engineers, Doctors, Dentists, Logistics and Communications."⁴

In the recent years, the issues of quality of life (QOL) for the members of the CF have been visible and at the forefront of our senior leadership, our government, the Canadian public and the members themselves. The gruelling pace for some trades within the forces has not been reduced. At the turn of the century the pers tempo was almost at a breaking point that the CF Army and Air Force tried to implement policy guidelines that would have personnel out of country for six months and back home for no fewer than 24 months. The commands were evaluating the effects of excessive deployments on their personnel and not surprisingly, they found that when personnel do not remain home for two years post deployment that the family life suffers and the professional development of trade skills was being lost.⁵

Here, entered the Bosnia Rationalization Project or CSP. From the DCDS objective stated above several alternatives were examined and the preferred option was the selection of a prime Canadian Contractor to provide complete support in selected functional areas. It would satisfy the CF urgent need to reduce the number of support trades constantly deploying, while at the same time perhaps develop a Canadian industry capability that would provide additional flexibility for the CF in future operations.⁶

⁴ LGen R. Henault, "A Balancing Act", *Maple Leaf*, Volume 3, Issue 5, (Ottawa: DND, February 2000), 4.

⁵ General Maurice Baril, "Stretched To Far?" ..., 4. The concept of remaining home for 24 months has now been reduced to 12 months. However, it is not uncommon for force generators to submit waivers to the DCDS (under transformation most likely now Comd CEFCEM) to send personnel back on deployment within the 12 months. This is usually due to occupations with lack of personnel with specific qualifications or mere numbers of personnel able to deploy.

⁶ Department of National Defence, J4 Logistics Doctrine, *Contractors in Support* ..., 1.

The CF has been using contractors on our deployed operations for various reasons and for some time. The majority of the contractor involvement has been the use of strategic transport resources (for deployment, sustainment and redeployment) and the hiring of local labour to work in our kitchens, messes and warehousing facilities. In 1994-5, one of the first and largest projects which saw a Canadian contractor supporting our forces in a deployed operation was the Add-On Armour Project for our two Canadian Battalions in the UNPROFOR mission area. The CF was now entering the next realm of contractor support; the use of civilian contractors on the "battlefield" to replace military personnel.⁷

In July 2000, the CANCAP program was initiated with the objectives:

- To provide the CF with additional flexibility through enhanced support capability
- To free up military personnel for employment where their military skills are most needed, and
- To concentrate on the preservation of support to CF war fighting skills in our combat support and combat service support forces.⁸

This paper will demonstrate that civilian contractors on deployed operations will not replace military capabilities but will rather provide an enabler to the CF. First, this paper will address some of the history behind the use of contractors and why the CF and other militaries are relying on the support of contractors on deployed operations. Secondly, it will analyze two issues, namely the legal implications and the command and control of civilian contractors. A short examination of the costs associated with contractors will then be done. Lastly, the paper will conclude with some

⁷ Department of National Defence, J4 Logistics Doctrine, *Contractors in Support...*, 2.

⁸ Department of National Defence, "Backgrounder: CANCAP", http://www.forces.gc.ca/site/newsroom/view_news_e.asp?id=1409 ; Internet: accessed 02 April 2006, 2.

recommendations that the CF should consider in regards to the employment of contractors on operations.

Throughout the history of warfare, civilians have travelled with armies and accomplished those functions now called logistical support. As far back as the 16th Century Martin van Creveld notes in his book, *Supplying War* that commanders realized the need to furnish their armies with supplies beyond what they could plunder. They did this through the use of sutlers, which were paid to bring supplies to the army.⁹ Civilian support has been accepted based on the universal perspective that non-combatants could accomplish support tasks as long as those tasks kept them out of direct confrontation with the enemy. This capacity has been recognized in the Laws of Armed Conflict (LOAC) as defined by the Laws of The Hague in 1907 and the Articles and Protocols of the Geneva Conventions in 1949.¹⁰

All facets of general logistics have been contracted out at one time or another in the past century, the majority of these being the provision and preparation of food, transportation, laundry, sanitation, security, translator services, base camp operations, water, communications and power production.¹¹ It made sense to use civilians to perform these menial logistical tasks and the CF has, to this point in time, taken advantage of this source of labour to execute the majority of the tasks outlined above. The following table

⁹ Major James E. Althouse, "Contractors on the Battlefield: What Doctrine Says, and Doesn't Say", *Army Logistician*, Volume 30, Issue 6, (Nov-Dec 98), 14.

¹⁰ Colonel Steven J. Zamparelli, "Competitive Sourcing and Privatization Contractors on the Battlefield, What Have We Signed up for?", *Air Force Journal of Logistics*, Volume 23, Issue 3, (Fall 1999), 10.

¹¹ Major James E. Althouse, "Contractors on the Battlefield...", 14.

depicts the significant numbers of civilians employed by the U.S. Military over history to perform these basic logistical requirements.¹²

Table 1: Civilian Participation in Conflict

War/Conflict	Civilians	Military	Ratio
Revolution	1,500 (est)	9,000	1:6 (est)
Mexican/American	6,000 (est)	33,000	1:6 (est)
Civil War	200,000 (est)	1,000,000	1:5 (est)
World War I	85,000	2,000,000	1:20
World War II	734,000	5,400,000	1:7
Korean War	156,000	393,000	1:2.5
Vietnam Conflict	70,000	359,000	1:6
Iraq (2006) ¹³	50,000 – 100,000	138,000	1:2.8 to 1:1.4

The trend towards an increasing number of civilian support personnel (contractors) as seen in the table above is evolving from executing the basic logistical or combat service support (CSS) functions (the traditional focus of the past) towards more importantly, the provision of support to more combat and combat support (CS) operations.¹⁴ More than ever before, civilian contractors are beginning to work side by side with the troops throughout the battlefield.

¹² Colonel Steven J. Zamparelli, “Competitive Sourcing and Privatization...”, 10.

¹³ Institute for Policy Studies, “The Iraq Quagmire: The Mounting Costs of the Iraq War”, <http://www.ips-dc.org/iraq/quagmire/cow.pdf>; Internet; accessed 02 April 2006, 2.

¹⁴ K.M. Peters, “Civilians at War”, *Government Executive Magazine*, Volume 28, Issue 7, (Washington, D.C: July 1996), 24.

Why has this happened?

There are three main factors that 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 sophisticated weapon systems. A fourth factor could also be included; the governmental troop commitment ceilings imposed and/or host country troop ceilings.¹⁵

Manpower Reductions

As stated in the introduction, the CF has undergone a force reduction of some 25% of military personnel and ADM (Mat) actively pursued alternate service delivery (ASD) options for many of the bases. The problem was that as we continued to transfer jobs that were normally done by uniformed personnel to the civilian workforce the operational tempo has not decreased. In fact as we have seen - it was on the increase! In the late 1990s, the U.S. Army and Air Force were experiencing the same dilemma. They have had a 300% increase in their missions, yet during the same time, the Army Material Command (AMC) military strength was reduced by 60% and the number of AMC depots had reduced by 50%.¹⁶ In addition, the Air Force on any given day had 12,000 airmen deployed compared to the late 1980s when the daily average was around 2,000.¹⁷

The end of the Cold War created a situation where, “professional armies around the world were downsized. At the same time, increasing global instability created a

¹⁵ MGen Norman E. Williams and Jon M. Schandelmeier, “Contractors on the Battlefield”, *Army Magazine*, Volume 49, Issue 1, (Arlington, Virginia: January 1999), 32-35.

¹⁶ Colonel Steven J. Zamparelli, “Competitive Sourcing and Privatization...”, 11.

¹⁷ K.M. Peters, “The Price of Peace”, *Government Executive Magazine*, Volume 29, Issue 3, (Washington, D.C: March 1997), 22.

demand for more troops.”¹⁸ In consideration of this situation, there has been a growing recognition that out of necessity, more of the jobs previously accomplished by military personnel will be done by civilians.¹⁹ In response to this growing requirement, the National Support Staff of the Australian Defence HQ (ADHQ) initiated a project in 1998 entitled, Deployment of Civilian Contractors in Support of Australian Defence Forces (ADF) Operations. The project found that the range of support capabilities, which could be provided, was virtually boundless. It also found that there were no absolute constraints to prevent the deployment of contractors, though there are many issues to be addressed before contractors deploy.²⁰ The CF have determined similar aspects with the variety of contractors that support deployed operations. The CANCEP contract can draw on 18 services described below, but these services do not take into account the other civilian contracts that the commands (Army, Air Force and Navy) or NDHQ have in place to support the extensive variety of platforms or systems. CANCEP services include:

- Administration and Management;
- Food Services;
- Materiel Management and Distribution;
- Communication and Information Systems;
- Land Equipment Maintenance;
- Health Services;
- Transportation;
- Accommodation and Support
- Construction Engineering Services
- Power Supply and Distribution;

¹⁸ Peter W. Singer, “Outsourcing War”, *Foreign Affairs*, Volume 84, Issue 2, (New York: March/April 2005), <http://www.brookings.edu/views/articles/fellows/singer20050301.htm> ; Internet: accessed 04 April 2006, 2.

¹⁹ Colonel Steven J. Zamparelli, “Competitive Sourcing and Privatization...”, 11.

²⁰ ADHQ Circular Memorandum No 40/99, Interim Policy and Guidance for the Deployment of Civilians in Support of Operations, 2 December 1999, 1.

- Water Supply and Distribution;
- Waste Management;
- Facilities Operations and Management;
- Roads and Grounds;
- Fire Services;
- Geomatics Support;
- Environmental Management; and
- Ammunition Support.²¹

Privatization and Support to High Technology Systems

The second and third factors for the trend towards the increased use of civilian contractors can be combined for discussion as they are in most cases inter-related. The militaries who are responding to the “war on terrorism”, humanitarian assistance requests or intervention in failed and failing states crises are finding themselves caught up in what could be called a catch-22 scenario. Declining military manpower has been placing more operational logistics jobs directly in the hands of the private sector, the budget and manpower reduction are also forcing large areas of core functions to be transferred through privatization or contracting out.²² Yet, due to the increased deployment tempo the demand for more uniformed CS and CSS troops with their experience and core functions, of most importance, their “combat skills” has never declined. The asymmetric battlefield of today demands that CS and CSS soldiers are no longer just located in the rear area because it is now difficult to define a “rear area”. As the sustainment function is executed the lines of communication are no longer completely secure. The convoys themselves, for example, have progressively transitioned from solely military to

²¹ Department of National Defence, “Backgrounder: CANCAP”..., 2.

²² Colonel Steven J. Zamparelli, “Competitive Sourcing and Privatization...”, 11.

contractor-operated logistics with intertwined civilian and military movements.²³ The consequence is the need for CSS soldiers to protect the convoys, thus the inherent requirement for core combat or force protection skills. The end result being a mutual relationship being developed to resolve the catch-22, additional civilian contractors to meet the shortfall in uniformed personnel and “sufficient” military personnel to execute the most dangerous sustainment functions and when necessary providing the ability to execute and protect the team of civilians and themselves on the asymmetric battlefield.

Today, critics would argue that we are starting to see a trend to move too far away from the traditional military doctrine on contracting. It used to be that if a function could affect the success or failure of an operation, the core capability of our military soldiers to execute said function was deemed to be “mission-essential” and was kept within the military.²⁴ Today this edict is not sacrosanct.

The critics could offer two areas, which are seeing the majority of privatization and which could be deemed mission essential; maintenance and information operations. Information operations superiority and situational awareness are factors which continue to influence the future battlefield and the commander's ability to get inside his enemies decision cycle. Information superiority is identified as a core function and is emphasized in the U.S. Militaries *Joint Vision 2000*. Yet, the U.S. Air Force has plans to reduce the communication-computer occupational field by 24% within the next five years.²⁵

²³ Rupert Pengelley, “Armed Forces Drive Advanced Solutions to Convoy Protection”, *Jane's International Defence Review*, (Jane's Information Group, Virginia: March 2006), 15.

²⁴ Peter W. Singer, “Outsourcing War”..., 8.

²⁵ Colonel Steven J. Zamparelli, “Competitive Sourcing and Privatization...”, 12.

Maintenance is one of the facets to having combat ready forces able to focus their combat power at a decisive point on the battlefield. It would follow that the maintenance personnel would obviously remain as core functions as the commander has command and control over military personnel and the ability keep them in the theatre of operation ensuring combat readiness. However, the U.S. Army is now considering institutionalizing contracts and using contractors for support of more than routine functions during operations. The Apache Prime Vendor Support and Paladin (155mm artillery) Fleet Management will be totally civilian oriented.²⁶ During Desert Shield and Desert Storm maintenance teams were supporting tracked and wheeled vehicles (anything from 2.5 ton to the 65 ton M1A1 tanks), the Fox NBC vehicles, TOW and Patriot missile systems.²⁷ New initiatives in the U.S. Air Force could see the complete contracting out of software maintenance on the B-2 bomber and total maintenance for the F-117 Stealth Fighter.²⁸

The U.S. Military actually have in place directives which stipulate that the military will become self-sufficient in maintaining and operating new systems as early as possible and limit contractor support to no more than 12 months.²⁹ This was to ensure that they did not become overly reliant on contractor support for their platforms. In 1999, the exact opposite is being expressed in Congressional language; maintenance and repair

²⁶ Eric A. Orsini and LtCol Gary T. Bublitz, "Contractors on the Battlefield: Risks on the Road Ahead", *Army Logistician*, Volume 31, Issue 1, (Arlington, Virginia: Jan-Feb 99), 130.

²⁷ Eric A. Orsini and LtCol Gary T. Bublitz, "Contractors on the Battlefield...", 131.

²⁸ Colonel Steven J. Zamparelli, "Competitive Sourcing and Privatization...", 13.

²⁹ *Ibid.*, 13.

for all new critical weapon systems will be under contract for at least four years and for the complete life cycle of non-critical systems.³⁰

The major outcome that militaries are going to suffer from due to privatization will be the eventual inability to support their systems and a reduction in skilled military technicians. In time of war or even Operations Other Than War (OOTW), we will be completely reliant on contractors to provide support whenever and wherever it is required. Is the CF's introduction of a civilian contracting the first step in what could be a long line of succession?

In order to resolve the issues which critics have identified above, we must look to the method in which decisions are made to employ contractors on deployed operations. Canadian doctrine utilizes the Operational Planning Process (OPP) in order to develop courses of action (COA) when examining options for a mission. The inclusion of contractor personnel within a Joint Operational Planning Group (JOPG) along side representatives of the J4 planning staffs would ensure that all factors are being considered during COA development. A complete examination on whether or not the introduction of contractors will hinder any portion of a plan and ultimately what actions a commander must take to alleviate or reduce the risks to a manageable or acceptable level can all be incorporated at the outset of an operation. Planners cannot anticipate every situation on the battlefield or even OOTW, however, given the fact that civilian contractors will unequivocally be deployed on future operations subsequent or branch plans must be developed in order to respond to a scenario where the threat becomes so significant that contractors pull out their technicians due to increased risks of injury, death or capture.

³⁰ *Ibid.*, 13.

Contingency plans must also be considered to be able to continuously replace in theatre personnel with additional civilian contractors or uniformed personnel.

The CF concept for employment of CANCAP is to deploy into an established theatre (one or more rotations have occurred) or one which is relatively benign in nature.³¹ This authors experience with CANCAP during Rotation 13 in Bosnia was one of significant success, however, the employment of CANCAP for Rotation 0 in May 2003 to Afghanistan was different. After Action Reports by the military highlighted several deficiencies at the contractor's management and supervisory levels, of note were inadequate qualifications, lack of continuity in key positions and staffing shortfalls.³² Some of these manning shortfalls were compensated by the deployment of military personnel who were trained as backfills and ready for just such an eventuality, while others had to be sourced at the last minute and sent to theatre. It has been demonstrated that contracting or privatization of functions are not the panacea to providing support on deployment, but it can be managed through concise and deliberate planning.

Troop Ceilings

The final factor describing why militaries have moved to an increased use of civilian contractors on deployed operations is troop ceilings. Most, if not all, commitments the CF and other militaries participate in will have a troop ceiling imposed by their government. There are currently more than 20,000 contractors deployed in Iraq, and were it not for these civilians the U.S. government would have to deploy additional

³¹ Department of National Defence, "CANCAP Project Charter 2001", http://www.dnd.ca/j4log/cancap/proj_chart/main_e.htm ; Internet: accessed 06 April 2006, 5.

³² LCol T.M. Endicott, "Use of Contractors on Canada's Deployed Operations – To What Extent?", (Toronto: Canadian Forces College Advanced Military Studies Course paper, 2005), 13.

troops from the regular force, reservists or National Guard. By outsourcing the President Bush administration has avoided the unappealing alternative of deploying additional troops.³³ History has shown us that the introduction of contractors to perform logistic functions frees up positions for the front line soldiers. In the Vietnam Conflict, there was more than 80,000 contractor person supporting the effort. These personnel did not count against troop ceilings set by President Johnson. Similarly, in Bosnia, the U.S. Military was able to get more "tooth" in the theatre by having more than 2,000 contractor personnel above the congressional limit of 20,000 troops.³⁴

The introduction of the CSP into Bosnia allowed our leadership to make the same decisions, to increase the "tooth", while providing some necessary relief to the stressed military occupations. Following on this, CANCAP has sent approximately 400 personnel to both Bosnia and Afghanistan and the Joint Support Group (JSG) Project Office estimates that this has provided some 200 skilled positions each six months that the CF have not had to deploy or some 1400 personnel tours.³⁵ In essence, the arguments for the use of contractors becomes increasingly attractive given that the past reductions in military personnel produced the need to retain higher tooth-to-tail ratios and considering that there is a viable solution to augment the logistics capabilities to ensure sustainment functions successfully meet the commanders requirement.³⁶

³³ Peter W. Singer, "Outsourcing War"..., 5.

³⁴ Colonel Steven J. Zamparelli, "Competitive Sourcing and Privatization...", 10.

³⁵ Jack Springer, email with author, 16 February 2006.

³⁶ Col R. Maynard, "Army Logistics Beyond Repair: Can Contracting Save the Day?", (Toronto: Canadian Forces College Advanced Military Studies Course Paper, 1999), 4.

Legal Implications

Downsizing for militaries around the world are making it a necessity to deploy contractors to the battlefield. They are accompanying forces throughout the battlefield and performing most functions the same as military personnel. We are creating what some lawyers may argue as a new classification of personnel on the battlefield - not combatants but more than non-combatants, “one military law analyst noted, legally speaking military contractors fall into the same grey area as the unlawful combatants detained at Guantanamo Bay.”³⁷ The ramifications on a force commander will be significant as the employment of contractors will need to be carefully planned to avoid the blurring of their non-combatant status.³⁸

The two most relevant documents are the 1949 Geneva Conventions (relative to the treatment of prisoners of war) and The Hague Convention of 1907 (definition of combatants). The Geneva Convention, Article 43 of Protocol I defines combatants as:

The armed forces of a party to a conflict consist of all organized armed forces, groups and units that are under a commander responsible to that party for the conduct of its subordinates.... Such armed forces will be subject to an internal disciplinary system that, inter alia, shall enforce compliance with the rules of international laws applicable in armed conflict.³⁹

The Hague Convention (IV), Annex to the Convention, further defines belligerents as:

Article 1. The laws, rights and duties of war apply not only to armies but also to militia and volunteer corps fulfilling the following conditions: To be commanded by a person responsible for his subordinates; to have a

³⁷ Peter W. Singer, “Outsourcing War”..., 5.

³⁸ LCol J.C.F. Mackay, “Is There a Role for Civilian Contractors on Canadian Forces Deployed Operations, (Toronto: Canadian Forces College Command and Staff Course Paper: 2003), 12.

³⁹ Department of National Defence, *Collection of Documents on the Law of Armed Conflict*, (Ottawa: DND Canada, 2005), 148.

fixed, distinctive sign recognized at a distance; to carry arms openly; and to conduct their operations in accordance with the laws and customs of war.⁴⁰

Those who do not fit these descriptions are non-combatants. In the CF context, our CANCAP contractors are described in the National Defence Act as civilians who accompany Canadian military forces.⁴¹ The Geneva Convention (III), Article 4 A.(4) defines our contractors status as non-combatant, entitling them to prisoner of war status:

Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided they have received authorization, from the armed forces which they accompany, who shall provide them for that purposes with an identity card.⁴²

In the U.S. Military their contractors do not fit the literal description of combatants because: they are not subject to the Uniformed Code Military Justice system (unless there is a declared war), they are not trained to conduct operations in compliance with the laws of armed conflict and the contractor is not subordinate to the field commander.⁴³ While most civilians are considered non-combatants, their jobs in support of weapon systems, communications and movement of combat supplies may be seen as active involvement in hostilities which may make them subject to direct or indirect attack. Under the LOAC they risk being targeted as a legitimate target.⁴⁴

⁴⁰ *Ibid.*, 15.

⁴¹ LCol A. Morrow, "CANCAP – The Changing Face of Logistics Support...", 80.

⁴² Department of National Defence, *Collection of Documents...*, 95.

⁴³ Colonel Steven J. Zamparelli, "Competitive Sourcing and Privatization...", 14.

⁴⁴ Department of National Defence, B-GG-005-027/AF-021, *The Law of Armed Conflict at the Operational and Tactical Level*, (Ottawa: DND Canada, 2001), 3-4.

In the Canadian context civilian contractors are subject to the Code of Service Discipline and could be tried by a special general court martial.⁴⁵ This could make them combatants and thus targeted no matter what tasks they are performing. The decision on what services or functions contractors will perform in a theatre of operations is of great significance. The CF have not hired private security companies like the U.S. to provide force protection, nonetheless, the issue of whether or not modern day contractors are indeed retaining their non-combatant status is a subject of considerable discussion in legal circles.⁴⁶

Command and Control

The ADF in preparation for their mission to East Timor directed that the civilians must retain their status as non-combatants and therefore the carriage of any weapon by Australian Public Service (APS) personnel and civilian contractors was expressly forbidden. Yet, on the issue of command and control they took an opposite stance in regards to potentially affecting their status. In particular, the requirement for the Commander to have the ability to control APS and contractor personnel with respect to good order and discipline, it resulted in the requirement for contractor personnel to sign an undertaking to respond to the Commander's orders.⁴⁷ This is not the common practise as in most circumstances the army does not directly command and control contractors in the same method as military units.⁴⁸

⁴⁵ LCol A. Morrow, "CANCAP – The Changing Face of Logistics Support...", 80.

⁴⁶ Cdr T.H. Addison, "Contractors on the Battlefield – Have We Done Our Homework?", (Toronto: Canadian Forces College Advanced Military Studies Course Paper; 2001), 15.

⁴⁷ ADHQ Circular Memorandum No 40/99, Interim Policy..., 4.

⁴⁸ J.A. Fortner, "Managing, Deploying, Sustaining and Protecting Contractors on the Battlefield", *Army Logistician*, Volume 32, Issue 5, (Arlington, Virginia: Sep-Oct 2000), 3.

Another issue facing militaries is not whether or not the contractors will continue to provide service, but whether or not they will be able to keep their employees on the battlefield when and where they are needed. In 2004, the U.S. Forces in Iraq experienced an upsurge of violence and a mass of contractor kidnappings resulted in a wave of firms delaying, suspending, or ending operations because they found it too dangerous.⁴⁹

Audits, studies or articles on this subject basically say the same thing; the Armed Services cannot ensure that the contractor will be there when hostilities begin. Legally, contractors cannot be compelled to go into harms way, even under contract, unless there is a formal declaration of war.⁵⁰

What does this mean to commanders? A reality exists for the loss of essential mission essential contractors. This can place soldiers and the mission in danger, which is unacceptable and therefore workable contingency plans, must be in place. A simple solution, but one that will not always solve the problem, could be the diverting of forces to provide appropriate protection to contractors.

The threat level in Somalia was such that the contractor required a military escort nearly all the time, as many as 12 to 18 marines were assigned to escort duties for every contractor task. In contrast, the contractor travels nearly one million miles per month on the open roads of Bosnia, Croatia and Hungary, and for the most part without the benefit of any force protection.⁵¹ Yet, at other times, the military in Bosnia had to expend

⁴⁹ Christopher Spearin, "International Private Security Companies and Canadian Policy: Possibilities and Pitfalls on the Road to Regulation", *Canadian Foreign Policy*, (Winter 2004), 2.

⁵⁰ Colonel Steven J. Zamparelli, "Competitive Sourcing and Privatization...", 14.

⁵¹ David L. Young, "Planning: The Key to Contractors on the Battlefield", *Army Logistician*, Volume 31, Issue 3, (Arlington, Virginia: May-Jun 99), 12.

considerable staff time and synchronizing of up to two companies to escort contractors in the performance of their duties.⁵² The lesson for the planner is that force protection must be part of the deliberate planning process and include flexibility to respond to the changing situation. To ensure the continued presence and execution of sustainment functions the contractor may require constant or very limited protection.

In summary the legal and command and control concerns can indeed be mitigated. Understanding that the legal status of contractors on the battlefield is actually unclear depending on what role they are executing especially from an enemies perspective. The continued increase in the sophisticated weapon platforms and the civilian contracts to maintain them means that commanders and planners need to accept that limitations do exist to the use of contractors on the battlefield.⁵³ Canadian Doctrine still remains to be published for contractors, however, the civilian CANCAP Project Office has been directly embedded into the JSG Headquarters. This will allow JOPGs to ascertain the intended involvement of CANCAP from the outset of an operation and ensure deliberate planning for in theatre execution of sustainment tasks. The U.S. Secretary of Defence fully supported the Government Accountability Office that contractors need to identify their operational requirements early in the process and that the military involve the contractors in planning, when practicable.⁵⁴ It is important that when developing the Concept of Operations (CONOPS) for a theatre that commanders use the assertion that

⁵² Colonel H.T. Palmer, "More Tooth, Less Tail: Contractors in Bosnia", *Army Logistician*, Volume 31, Issue 5, (Arlington, Virginia: Sep-Oct 99), 9.

⁵³ Col R. Maynard, "Army Logistics Beyond Repair...", 9.

⁵⁴ United States, Government Accountability Office, "Military Operations: DoD's Extensive Use of Logistic Support Contracts Requires Strengthened Oversight", July 2004, 60.

contractors augment uniformed personnel not replace them. This will provide the flexibility and redundancy necessary to ensure success.

Costs of Employing Contractors

One of the adages about employing contractors is derived from the cost savings that can be realized because certain services can be executed more cheaply. Support for the use of contractors emphasizes that contractors are providing militaries a surge capability, that when the job is over you are no longer paying for salaries, medical benefits, pension etc., basically you are not keeping additional personnel in uniform.⁵⁵ The flip side to this position is seen in the enormous dollars that are being spent on contractors. From 2002 to mid July 2004, some 150 contractors have been employed in Iraq and Afghanistan to the tune of \$51.9 billion.⁵⁶ Critics say the jury is still out on this topic because there has been no comprehensive study to look at and say decisively that money is being saved. While some academics agree that no one knows for sure if it is cheaper, they can also point to a RAND study that identifies that there is potential for immense cost savings.⁵⁷

The bottom line is that arguments pro and con on contracting for deployed operations are substantial for both sides. Best business practises with contracting on a competitive basis and oversight from government auditors will provide the public with at least a minimal acceptance that contracting is being done responsibly. In the CF, it is

⁵⁵ PBS.org, Frontline, “Private Warriors: Contractors: Does Privatization Save Money?”, <http://www.pbs.org/wgbh/pages/frontline/shows/warriors/contractors/ceff.html> ; Internet: accessed 10 April 2006.

⁵⁶ PublicIntegrity.org, Windfalls of War, “Post War Contractors Ranked by Total Contract Value in Iraq and Afghanistan”, <http://www.publicintegrity.org/wow/resources.aspx?act=total> ; Internet: accessed 10 April 2006, 1.

⁵⁷ *Ibid.*, 3 and 4.

important to return to the reason CANCAP has been introduced. The Program will alleviate strain on support occupations, allow the CF to focus on core roles, improve the QOL for CF members and ultimately provide operational flexibility.⁵⁸

Recommendations

It is recommended that some emphasis must be placed on contractor training for our future leaders and the concept of "civilian contracting as a force multiplier"⁵⁹ should be added to the CF's professional development program. Focus cannot be limited to the logistics community as all levels of command, strategic to tactical need to be made aware of the implications (advantages and limitations) on achieving their missions when contractors have been deployed in support.

The CF should be developing a centre of excellence for contracting on deployed operations. Courses and qualifications could be considered that address issues such as doctrine, policies, procedures and liabilities involved in contracting and the lessons learned from our allies (US/British/Australian) need to be brought together into an accessible format. The development of Contracting Officers, similar to the U.S. military, as a military occupation could be considered.

A final recommendation is that, additional research by the legal community both nationally and internationally needs to be expedited. Consideration to confirm, redefine or modify what is a non-combatant taking into consideration the evolution of contractors

⁵⁸ Department of National Defence, "Backgrounder: CANCAP...", 1.

⁵⁹ Captain I.K. Garcia-Perez, "Contractors on the Battlefield in the 21st Century", *Army Logistician*, Volume 31, Issue 6, (Arlington, Virginia: Nov-Dec 99), 43.

on the battlefield is a concern that must be addressed to ensure the safety of civilians accompanying armed forces.

Conclusion

In conclusion, this paper has assessed the employment of contractors on deployed operations and found that they will indeed be a force enabler. Contractor involvement with the CF may be minor in nature or it may play a major role in the future. Whatever the mission, combat or OOTW, they will continue to be deployed and very likely to a greater extent and possibly forward on the battlefield. The use of civilian contractors on the battlefield cannot fully replace military force structure, therefore, commanders and planners need to become more familiar with contractor employment as non-combatants on the battlefield and the selection of what services the contractors should perform. When developing CONOPs, planners must be prepared with parallel planning and branch plans should a contractor depart the theatre in the face of hostile acts.⁶⁰

Commanders must realize that because of governmental imposed manning levels and budgets, contractors are now performing some mission essential tasks. They will take on support roles that were once exclusively performed by soldiers and this may jeopardize their status as non-combatants. However, in all circumstances, commanders must have a plan to protect the contractors otherwise, those mission essential tasks could be jeopardized.

Current doctrine that addresses the contractor on the battlefield has not kept pace with recent developments and conditions under which the CF will be employing

⁶⁰ Captain I.K. Garcia-Perez, "Contractors on the Battlefield in the 21st Century...", 43.

contractors. As the CF introduces new sophisticated equipment, weapon platforms and communications systems consideration for contractor involvement will require sound judgement and decision making at the strategic through tactical level on how and when contractors will be employed.

There is little doubt to date that the CSP and CANCAP endeavours have provided incredible support while deployed to Bosnia and Afghanistan, however, they do not replace military capability. The CF must be able to sustain itself with military capabilities during operations across the spectrum of conflict, but, with an unprecedented operational tempo operational flexibility is required and CANCAP provides this flexibility. The CF can now, when permissible, turn to the private sector for augmentation,⁶¹ and this collaboration will enable the CF to execute all assigned tasks given to them by the Canadian government.

⁶¹ Department of National Defence, “Backgrounder: CANCAP...”, 4.

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