

**Volume 6 Number 1 (2012): 70-72**

<http://www.infactispax.org/journal/>

### **Outsourcing War and Peace**

Sam R. Snyder

A review of Laura A. Dickinson, *Outsourcing War and Peace: Preserving Public Values in a World of Privatized Foreign Affairs*. (New Haven and London: Yale University Press, 2011).

Professor Dickinson begins her book with a recounting of four incidents involving private contractors. The first is the shooting in Baghdad's Nisour Square on September 16, 2007. When the shooting is over seventeen civilians, all Iraqi nationals, are dead. The incident began when a single bullet, apparently fired by a Blackwater guard, killed an Iraqi man driving a car that was approaching a convoy. A military report determined that the guards had used excessive force and that all of the deaths were unjustified.

The second incident occurred in January of 2007 when it was learned that the State Department paid \$43.8 million to DynCorp for operating a residential police training camp. \$4.2 million has been diverted to the purchase of twenty luxury V.I.P. trailers and an Olympic-size pool. Previously, in a similar agreement in Bosnia, DynCorp employees were caught running a sex trafficking ring.

In April of 2006 in Iraq, a string of stopped cars and trucks are riddled with bullets fired by another security contractor, a shift leader of a group of guards working for Triple Canopy, under contract to protect the employees of Kellogg, Brown, and Root (KBR), logistics contractors hired by the U.S. Department of Defense (DOD).

The fourth incident is the well-known abuses at Abu Ghraib. Less recognized is the involvement of contract interrogators and translators at Abu Ghraib. According to military investigators, these contractors were inadequately trained and supervised and were responsible for some of the worst abuses at the prison, an example of the sometimes unhealthy mixing of uniformed soldiers and private contractors.

According to the author, these various incidents reveal one of the most remarkable facts about the U.S. conflicts in Iraq and Afghanistan: alongside the military there is another fighting force. They are not wearing uniforms, and they are not subject to military discipline or the chain of command.

In the past ten years, states and international organizations have shifted many foreign policy functions over to private contractors.; governments around the world have employed these contractors. The U.S. government has used private security companies and other contract firms in Iraq to perform a wide variety of functions that involve the potential use of force. Although incorporated in Western countries, the firms hire *employees* of multiple nationalities. (italics in original) The same privatization trend can be seen in the realm of foreign aid; in Iraq and Afghanistan for-profit companies have actually predominated.

According to the author, this trend represents a threat to public values. These values include (1) the fundamental respect for human dignity enshrined in international law, including norms of human rights, human security, and the idea of rule-bound warfare, with its protections for non-combatants and wounded soldiers; (2) public participation in decision making; and (3) transparency and anticorruption.

These public values are at risk because of an outmoded legal architecture. The author calls for the construction of a new regulatory architecture for an era of privatization; she then proposes four distinct mechanisms of accountability or constraint: “(1) *pursuing litigation under international and U.S. domestic law and possibly changing existing statutes*; (2) *reforming both the contracts themselves and the entire contract oversight and enforcement regime*; (3) *fostering public participation*; and (4) *addressing organizational structure and culture* (italics in original, p. 13).”

These proposals are based upon two background premises: (1) public values matter when we are operating overseas; (2) outsourcing has become so entrenched that we cannot completely eliminate it.

The remainder of the book discusses the four mechanisms of accountability and constraint, their potential difficulties, and the variety of objections that might be raised. The author offers a brief recent history of privatization, suggesting that the turn to private organizations has fundamentally altered the very nature of the modern liberal democratic state.

The ensuing chapters focus on *legal* accountability and assess the extent to which private contractors might be amenable to criminal prosecution or civil suit in international or domestic forums, *contractual* accountability and constraint, the knotty problems of *public participation* as a mechanism of constraint, as well as a value in its own right, and finally, a suggestion that more attention be paid to *organizational* constraints.

While there is a burgeoning literature dealing with the rise of the privatized military and its consequences, the privatization of government functions as a threat to democracy, the rise of mercenary armies such as Blackwater, and the role of private security contractors in Iraq, none of the current literature focuses principally on legal and public policy reforms that might increase accountability as the current volume does.

Professor Dickinson, currently a faculty member at Arizona State University, was formerly a fellow in the Princeton Program on Law and Public Affairs while on a research leave from the University of Connecticut School of Law.

The book is well-organized, persuasively argued, well documented, and a valuable contribution to the literature on a vitally important topic. It is intended for the educated public as well as the legal scholar.