

Death, injury benefits a casualty of new war strategy, study says

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A hole in public policy is shortchanging U.S. soldiers and civilian workers who become casualties of a new-age war strategy that leans heavily on private contractors, a new University of Illinois study says.

Law and labor professor Michael LeRoy says contractors employ workers who now perform risky duties such as transportation and security that were once handled by the military, and also routinely supervise troops on non-combat projects such as building roads and schools.

But when [soldiers](#) and [civilians](#) are killed or injured, contractors use the veil of government immunity and other war-related legal arguments to limit financial payouts, according to an analysis of lawsuits filed by the wounded and survivors.

"It's not that no compensation is provided; it's that a pittance is provided," LeRoy said. "People deserve ample opportunities for compensation when they are under the supervision of for-profit companies doing business with taxpayer money."

He says the findings show that policy makers need to close coverage gaps that have emerged through the growing outsourcing of war, which saw 242,000 civilian workers augment 280,000 troops last year in Afghanistan and Iraq.

Court cases reflect a wide range of wartime perils, including civilians

killed while transporting supplies, women raped by co-workers and soldiers suffering from exposure to deadly toxins while working for private contractors, LeRoy said.

"Distressing images emerge from the litigation," he said. "There's an overselling of jobs, with firms promising six-figure incomes and safety. People left good jobs only to find the pay wasn't nearly what it was represented to be nor was their safety assured."

Contractors typically raise war-related defenses in an effort to limit damages, LeRoy said, such as a long-held principle that bars tort recovery for injuries arising from military service and a contractor immunity doctrine that exempts firms from liability if they follow government-supplied specifications and directions.

LeRoy says his research shows judges are increasingly rejecting those arguments in cases involving deaths, including rulings by two traditionally conservative courts that allowed lawsuits filed by survivors to proceed.

"It's an encouraging trend, and the fact it's emerging from two conservative courts makes it all the more a positive sign that courts are not rigidly enforcing the doctrine," he said.

But LeRoy says policy makers still need to build a system to better compensate soldiers and civilians who are injured while working for war-zone contractors. He recommends a federal worker's compensation policy that would require American-based contractors to provide coverage for employees overseas, not just in the U.S.

"An employee or soldier who is injured while working for a U.S. contractor in a war zone should be treated no differently than a worker in Texas or California," he said. "The fact that it happened in Iraq

shouldn't change the equation."

LeRoy says worker's compensation in war zones should cover soldiers as well as civilian employees. He says troops injured while working for contractors deserve the same compensation as their civilian counterparts, not just the government disability payments that are designed for combat-related injuries and account for the inherent risk of [military service](#)

Extending worker's compensation to foreign battlefields would provide fair compensation for injuries and also protect contractors from potentially costlier court judgments, LeRoy said.

"Worker's compensation overseas would reflect the same compromise that was reached over 100 years ago in the U.S., when employers and unions had a rare moment of agreement and decided to shield companies from tort liability in exchange for an insurance system that adequately compensates injured workers," he said.

LeRoy says the current system sharply favors firms that profit from aiding the war effort, at the expense of workers and soldiers who deserve better treatment.

"The present system imposes disproportionate costs on severely injured workers and soldiers and their survivors," he wrote. "The lack of accountability for negligence, recklessness, intentional injury and severe discrimination is at odds with military principles of discipline and order."

Provided by University of Illinois at Urbana-Champaign

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