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THE OUTSOURCING OF STATE SECURITY: A CASE STUDY OF US INTERVENTION IN LAOS, 1962–1975

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Abstract: The United States (US) involvement in covert action abroad has received significant scholarly attention, including the outsourcing of force to third parties, such as foreign death squads, private paramilitaries, and more recently private military and security companies. However, less attention has been paid to the routine and everyday mechanisms the US state uses to administer outsourced force, and the impacts this has both on the combatants and civilians. Through a historical examination of the covert conflict in Laos from 1962–1975, this article documents the routine administrative mechanisms the US state employed to prosecute an illegal war. This article’s principal contribution to the state crime literature is the documentation of the hidden harms this generated both for the combatants used and the civilians affected by the violence. This contribution is grounded in interviews conducted with ex-service people from the conflict period and archival research, including recently declassified materials.

Keywords: Covert conflict; non-state actors; security governance; social harm; state crime; state security.

Administering a Covert Conflict

There is an increasing scholarly interest in the public–private nexus in covert conflicts. That is, how states synthesize conventional military force with private

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irregular, paramilitary, and/or corporate forces, to covertly prosecute geopolitical objectives abroad. In part this is due to the escalation of conflicts in the Middle East and South Asia with an amalgam of governance techniques underpinning the administration of force (Thomson 2018).

This article focuses on analyzing the governance of force¹ during the US's covert conflict in Laos from 1962–1975, which it will interpret through a state crime and state-corporate crime lens (Kramer et al. 2002; Krahmman 2013).² While there has been extensive academic research on the Vietnam War, the parallel covert conflict³ in Laos has not been subjected to the same scrutiny, especially from a criminological perspective.

US diplomatic intervention in Laos began as early as 1950 due to the country's geographical location (bordered by Vietnam, Cambodia, Thailand, Myanmar (formerly Burma), and China) and fears surrounding the spread of Communism from North Vietnam and China (Dwyer 2013). Initially this intervention was financial including funds for military aid, policy training, civic action programs, tactical training, and field operations (Leary 2001: 3). The US government was under international pressure to de-escalate their military presence in Laos (Czyzak and Salans 1966). However, contrary to the overt intention of the Kennedy administration to de-escalate in Laos, it outsourced military operations to private sector actors, including both formal corporate actors, and informal irregular actors.

Air America (AAM) personnel played a vital role in the covert conflict in Laos, undertaking a range of state-sanctioned activities such as transporting personnel (Hmong and US), search and rescue, conducting reconnaissance, and testing equipment (Rosen 2005: 113). The US also relied on the Hmong in Laos, using this indigenous community as a state supporting irregular force (Vang 2016: 140). This covert conflict in Laos should not be overlooked or resigned to history, the modality of the conflict was deemed to be “so successful – for Presidents, and for the CIA, that is – that it would become a template for a new type of large, secret war for decades to come” (Kurlantzick 2018).

This article makes an original contribution to the criminological literature on state crime by analyzing the administrative mechanisms used to conduct the covert conflict in Laos, looking at the extent to which these governance structures were purpose-built by the US to evade international accountability and to what extent they generated social harms and other improper activity. Specifically, we explore this focus using interviews conducted with those who fought in the covert conflict and through archival research.

To begin, we will provide a succinct review of the existing literature pertaining to the outsourcing of security and explore the reasons why states have increasingly chosen to delegate such tasks to non-state actors and how they achieve this. Then, we provide a brief outline of the research methods underpinning this study, and following this we discuss the case study of Laos in relation to employment of

non-state actors, encompassing both private military security companies (PMSCs) and irregular forces. The case study will consider both the governance structures used and the related forms of harm this produced. An explanation of the relationship between harm, security governance and the political economy of the conflict will then be developed, drawing on state–corporate crime theory.

Outsourcing Security

The use of PMSCs in conflicts globally has led to an exponential growth in the literature surrounding these entities, from understanding their identity and role in conflict to debating the effectiveness of regulation and accountability. Privatization in wars encompasses a variety of roles, as Liebelson (2015) explains “the U.S. military increasingly relies on contractors for a huge variety of tasks: construction, private security, food preparation and delivery, administrative tasks and much more”. Indeed, since the end of the Second World War there has been a trend towards privatization of key defence functions (Kurlantzick 2003). While since the end of the Cold War consistently less money has been spent on the US military year on year, defence contractor spending has increased (Brasher 2000). This decrease in military spending proportional to GDP, paired with the exponential increase in the use of private entities to carry out the duties traditionally associated with the state security apparatus during this time frame has led to the state’s monopoly of force being called into question (Krahmann 2009).

Although the use of contractors by the US government is not new, the ways in which non-state actors are integrated into the state security apparatus have changed over time. Cotton et al. (2010: 9) explain the administration of force began to change following “a directive issued in 1955 by the former Bureau of the Budget encouraging all Federal agencies to use private enterprise and civilian business channels for services and goods” which led to an increase in the use of private contractors during the Vietnam War. Coupled with the unfavourable public perception of US military intervention in Southeast Asia, there was a strong political desire to maintain networks of covert relationships with a range of non-state actors (Klare 1989).

As Isenberg (2009) notes “decades ago the government made a deliberate decision to both privatize and outsource military functions and activities that had traditionally been done in the public sector” while suggesting cost-cutting played a large part in the state’s decision to outsource. The perceived advantages of utilizing PMSCs include the achievement of political objectives through private actors due to their “low visibility and presumed low cost”, in addition the US can “shift responsibility and blame for its actions” (Isenberg 2009).

In the post-Cold War period, the narrative associated with the employment of non-state actors in conflict predominantly focuses on the Afghanistan and Iraq

Wars spanning from 2001–2021 and 2003–2011 respectively, thus much of the extant literature on the outsourcing of security centres on post-Cold War conflicts and concerns PMSCs (George and Kimber 2016; van Creveld 2009).

PMSCs are complex entities. Carmola (2010: 9) notes that PMSCs are not easy to categorize and that “they are ambiguous or polymorphous entities – a mix of old and new, public and private; slippery and hard to pin down analytically”. This highlights the difficulties, not only of identification of the entity itself but also alludes to the ambiguity surrounding their role in conflict. Arguably, the historical strategic implementation of such entities is underpinned by this obscurity, in that the US administration had at their disposal the ability to dissolve any affiliation with proxy forces once desired objectives had been achieved (Klare 1989).

The issue of identity has been further theorized by Krahmman (2010: 46) delineating the tri-characteristic nature of PMSCs. The first definitive characteristic is the “disconnection between military service and the state...the private military entrepreneur is only bound to the state through a temporary common law contract” (Krahmann 2010: 46). This highlights the mutually beneficial relationship that can be forged between the state and contractor, which is underpinned by a changing set of public policy norms associated with the rise of neo-liberalism. Thus, the private contractor should be separated from the political context as the neo-liberal principles of “individual choice and market competition” prevail over the state’s security structure of “mutual obligation” and “unilateral duty” (Krahmann 2010: 46). However, it is often the case that PMSCs have close affiliations with the state’s defence departments and agencies. According to Tonkin (2011), private contractors represent the majority of personnel not only in the Pentagon’s Counterintelligence Field Activity Unit, but also in the CIA’s National Clandestine Service and the National Counterterrorism Center. The second characteristic is profit motivation where the incentive for private military contractors is monetary gain rather than the patriotism of professional soldiers (Krahmann 2010). The third characteristic of non-state actors is that “military contractors lack a distinct professional and collective identity” alluding to a loose sense of morality and difficulties in “ensur[ing] their compliance with professional military norms and standards” (Krahmann 2010: 47).

The existing literature highlights a comprehensive engagement with the accountability of PMSCs. What is not addressed is the role played by the state after the contract is awarded. This is alluded to by Cusumano (2011: 29) highlighting that states can enjoy “the shield of plausible deniability...when using PMSCs as tools of foreign policy by proxy” but otherwise, the role of the state is largely ignored in the aftermath. Some interventions in the security governance literature focus more on the negative and ambiguous factors surrounding non-state actors. To explain further, examples of potential misconduct, both on behalf of the contractor and the state are used to argue for abandoning the use of the private security

industry by states (Higate 2011; Amar 2014). More moderate critiques focus on building and maintaining integrity in the private security industry – highlighting the positive impact PMSCs can have (Avant and Neu 2019).

The second set of non-state actors to consider – which have been systematically employed by the US state – is that of irregular forces, which are described by Boczek (2005: 437) as,

a category of combatants consisting of individuals forming part of the armed forces of a party to an armed conflict, international or non-international but not belonging to that party's regular forces and operating in or outside their own territory even if the territory is under occupation.

Although literature on irregular forces alludes to a connection with the state, whereby their actions in conflict “supplement the state” it is important to consider that these groups “have their own agendas, methods and networks” (Robb 2008: 86). It is argued that their covert means of operation, void of any form of accountability structure, offers the state a degree of plausible deniability (Lowenthal 2016).

Unlike PMSCs, irregular forces are mentioned only briefly in the existent literature in relation to their employment by democratic states such as the US (Couch 2007; Gunn 1991; Hwang 2002). Therefore, key questions remained unanswered surrounding the employment and consequences of contracting irregular forces in covert conflict, which do not have an official corporate identity or corporate governance structure. Moran (2015: 154) explains that the state's employment of non-state non-corporate actors is not a new concept and that “the development of large professional standing armies never obviated the need for local less organized and less controlled forces for a variety of reasons”. While there exists a broad consensus within the academic literature that states routinely employ irregulars in a variety of forms, there is ambiguity surrounding the mechanisms and conduits through which the state manages the relationship before, during, and in the aftermath of conflict (Godfrey et al. 2014; Westermeyer 2013). States routinely employ “irregulars”, however, their recruitment, financial relationship, accountability, and role in conflict remain largely covert and thus not as well understood as the state's relationship with PMSCs (Godfrey et al. 2014; Westermeyer 2013). Furthermore, when reviewing the literature surrounding security governance, the state, PMSCs and “irregular” forces are scarcely mentioned together. Scholarly literature focuses on each entity individually, yet it is evident that these forces are integral to a “multi-layered” approach by states (Scheye and McLean 2006; Hoffmann et al. 2016).

Also, less prevalent in the literature is the day-to-day governance relationship between the state and different proxy forces – that is the day-to-day mechanisms by which this relation is administered, looking at how this shapes both how force

is used and the consequences this has for prosecutors of violence and victims of violence. Jamieson and McEvoy (2005: 506) point to “proxy state crime and juridical othering” whereby states can effectively “circumnavigate national or international legal protections” by outsourcing state violence and denying the victims’ remedy, through particular mechanisms. However, the application of these concepts in their research relates to the use of torture. This study looks to remedy particular gaps in the literature with regards to proxy state violence, by looking at the administration of covert violence through multi-layered proxy forces, focusing on a Cold War era theatre of war, which was a training ground for later tactics. This is done with a particular focus on the harms generated by this approach.

Methodology

The research methods used for the study presented in this article comprised semi-structured interviews and documentary research. Given the time that has elapsed since the end of the conflict this research is timely and pertinent, as first-hand accounts of those who took part in the conflict have to date, not been explored to the full extent. Participants included those with direct or indirect experience of the conflict and were recruited through purposive and snowball sampling. This sampling technique took account of previous experiences of Air America (AAM) in participating in research whereby many felt taken advantage of, taken out of context with much poetic licence, or were not consulted when writing the history of AAM activities (e.g. *Air America* (1990 film)). Interviews were conducted with 19 former AAM employees and six security experts. These experts included ex-CIA employees, ex-PMSC personnel, historians, and academics with knowledge about the conflict in Laos or the provision of force. The lead author considered interviewing members of the Hmong community in Laos using an interpreter, but issues arose with respect to informed consent and subsequently this did not form part of the research (however, the Hmong experience in Laos is currently the subject of research being conducted by the lead author). Ethical approval for the research was obtained from the lead author’s home university.⁴

The documentary research included oral and written histories of the conflict, official government records of contracts awarded to non-state actors and documents outlining the administration of force in Laos. The archives used to investigate this study are held in the US and comprise the National Archives, Presidential libraries, CIA, and National Security Agency archives. AAM employees and members of the Hmong were employed by the US through the Departments of State and Defense and their associated paperwork is held in the CIA archives. Additionally, 28 interviews carried out for the Hmong Oral History project by Dr Paul Hillmer and Peter Vang of Concordia University, St Paul, were also utilized

(2004).⁵ The qualitative data were analyzed through thematic analysis using NVivo software (Braun and Clarke 2013).

Although AAM has been the subject of numerous books, including Robbins' (1979) *Air America*, which provides a comprehensive history of the airline using information that was available at the time. The authors of this article have benefited from the declassification of documents via the CIA CREST archive (CIA n.d.). This article extends the analysis by including previously classified information and applying a theoretical framework. Robbins (2012: prologue) explains in a later edition of his book "I always took it for granted that other books by other writers would follow over the years, and that some definitive, scholarly tome on Air America would eventually be produced. Remarkably, that has not happened". This article offers the first scholarly analysis including first-hand accounts of the conflict from AAM personnel.

Laos 1962–1975: Investigating the Role of Air America and Hmong Irregulars

It was noted in the introduction that US diplomatic intervention in Laos began as early as 1950 due to the country's geographical location (bordered by Vietnam, Cambodia, Thailand, Myanmar (formerly Burma), and China) and fears surrounding the spread of Communism from North Vietnam and China (Dwyer 2013). Initially this intervention was financial including funds for military aid, policy training, civic action programs, tactical training, and field operations (Leary 2001: 3). The US government were under international pressure to de-escalate its military presence in Laos (Czyzak and Salans 1966), especially as a civil war in Laos escalated. The civil war pitted the US-backed Royal Lao Government (RLG) against the Pathet Lao (PL), supported by the North Vietnamese Army (NVA) and Viet Cong (VC). Air America (AAM) personnel played a vital role in the conflict, undertaking a range of state-sanctioned activities including transporting personnel (Hmong and US government), search and rescue, conducting reconnaissance and testing equipment (Rosen 2005: 113). The US also relied on the Hmong in Laos, using this indigenous community as state supporting irregular forces due to their knowledge of the terrain and cultural value system (Vang 2016: 140). The decision to intervene in Laos came from the success of the NVA and supporting forces in annexing large sections of the country which became of great strategic importance to the wider conflict in Vietnam (Pholsena 2013: 163).

The change in presidency from Dwight D. Eisenhower to John F. Kennedy in turn led to a new approach to Laos. Scaling back US support to the landlocked nation was viewed as a starting point for de-escalating Cold War tensions between the US and the USSR (Hill 1969). In 1961, President Kennedy paved the way for

a ceasefire in Laos, calling for the preservation of the country's neutrality. The implementation of the "Declaration of the Neutrality of Laos" directly impacted the mode of force used by the US in Laos (United Nations 1962). This led to the need for a change in strategy from overt to covert intervention. Kennedy's pursuit of neutrality was a façade, it meant that the US could withdraw military personnel and return them "sheep dipped" in civilian clothing (Smith 1963; Rusk 1963; Kurlantzick 2018). In order to maintain a presence in Laos, the US chose to operate covertly in order to preserve the façade of their adherence to the Geneva Convention 1962 (Helms 1981).

Against this backdrop it is pertinent to focus on the role of Air America (AAM) and the indigenous Hmong in Laos with specific attention on the contracting relationship and various governance issues this prompted. The extent to which these entities influenced the outcome of the conflict is underrepresented in the current literature. It is important to note a key difference between this case study and the example of US intervention in Afghanistan during the Cold War. The US relied on the Mujahideen to combat Soviet expansion in Afghanistan, similarly the CIA relied on the Hmong in Laos (Hughes and Tripodi 2009). However, the key difference in these cases is that the non-state actors in Laos provided a loophole for the US as the Geneva Conference 1962 "legally prohibited the United States from directly sending in its military troops to counter the North Vietnamese support of the Communist Pathet Lao forces" in Laos (Hwang 2002). Without the use of non-state actors, the US could not successfully pursue their foreign policy and geopolitical objectives as it did in Afghanistan during the Cold War (Lehmann 2017).

The Hmong were utilized by the US as an irregular force due to their knowledge of the land "to prevent North Vietnamese troops from entering and moving supplies to South Vietnam through Laos" (Neuliep 2014: 118). The Hmong are a minority ethnic group with a diverse history. The Hmong diaspora began long before the US intervention in Laos; Lee and Tapp (2010: 191) explain the hardship the Hmong experienced:

for many centuries, the Hmong have been subject to the domination of other more powerful people such as the Chinese. When they migrated to Southeast Asia, they lived as minorities under the rule of more numerous groups or people who controlled the territories they found themselves in such as the Vietnamese, Lao, and Thai.

As an irregular force, the Hmong were desirable to the US because of their vast population size and their history of persecution (Vang 2016). In many official documents, the Hmong are occasionally referred to as the Meo. However, Meo is seen as a derogatory word meaning "savage" therefore the term Hmong is used,

aside from verbatim quotes (Brown 2001). The term Meo or Miao stems from many “centuries...of Chinese control” of national identity, prior to their migration to Indochina and is “vehemently rejected because of its derogatory connotation” (Lee 2007). The Hmong were aligned with the French during the colonization of Laos, subsequently due to their autonomy and their “dislike of the Vietnamese” the Hmong became aligned with the US (CIA 1963). Due to their strategically advantageous positioning and their knowledge of the terrain, the Hmong became the prime candidates for US training and support (Hamilton-Merritt 1993; Morrison 2013; Leary 2001).

It should not be overlooked, that the irregular forces in this case were deemed a strategic asset by the US because they were not indifferent to the other combatants or indeed the geopolitics of the region – a characteristic more typical of PMSCs. The centuries of oppression the Hmong had suffered on the one hand created a motivator for their recruitment, on the other hand, it also, once weaponized, formed the seeds for violent reprisals difficult to restrain through covert, informal mechanisms of governance.

Parallel to the administration of the Hmong and under the guise of formal private ownership, the secrecy surrounding the administration of AAM meant that the ownership of the entity was ambiguous. There is much written in the existing literature, past and present, to suggest that the CIA created, owned and operated AAM (Robbins 1979; CIA 1972; Kurlantzick 2018; Thomson 2018). However, this is not the case. In a memo marked “secret” and subsequently declassified, the evolution of AAM is explained,

The Parent company of Air America is the Pacific Corporation, a U.S. corporation originally incorporated in Delaware as the Airdale Corporation on 10 July 1950. The Pacific Corporation owns 100% of Air America which was originally incorporated in Delaware as CAT [Civil Air Transport] on 10 July 1950...this aviation complex was originally procured by the U.S. Government in 1950 to deny its assets to the Chinese Communists and to make available to the U.S. Government certain air capabilities not available through commercial means due to the sensitivity of flights and the risks involved. (CIA 1972)

Due to the complex ownership structure of AAM, the US government could overtly contract AAM without suspicion surrounding its origins (CIA 1962).⁶ As AAM was owned by the Pacific Corporation, whose “retained earnings...sale of assets and capital [were] returned to the Treasury of the United States” following the dissolution of both entities (CIA 1976: 11). The government effectively contracted itself to provide services that it could not overtly ask of its military. The covert government ownership of AAM allowed for a series of incursions in breach

of the Geneva Convention. What is pertinent is that while many denote CIA ownership of AAM, it was in fact owned by the US government and contracted by many government departments.

AAM was regulated under the Federal Aviation Agency (FAA) under the regulations set forth for “air commerce” activities defined by the Federal Aviation Act. However, there were notable exceptions to the application of this regulation,

after a number of meetings on the subject the FAA has modified its position to the extent that operations confined to the three countries of Thailand, Laos and Vietnam and conducted under U.S. Government contracts will not be considered as requiring compliance, or exemption from Part 121 of the Federal Aviation Regulations. (Doole Jr 1966)

Often AAM are discussed dismissively as a rogue CIA proprietary who acted of their own accord, mainly in the pursuit of profit (Blum 2006; Hancock and Wexler 2014). What is important for this analysis is to highlight the US government administration of AAM, as if it were a private company (Time 1966). The day-to-day administration of the company was governed, throughout the majority of its tenure by four key figures, George A. Doole Jr (Founder, Vice Chairman of the Board of Directors, Managing Director), Paul C. Velte Jr (Chairman of the Board of Directors and Chief Executive Officer), Clyde S. Carter (Senior Vice President), and James H. Bastian (Secretary). George A. Doole Jr has often been cited as having a career in the CIA, however, the CIA claimed to have no record of Doole as an employee – he died in 1985 in virtual anonymity. That is not to suggest that Doole was not an Agency employee, but rather to highlight that the US remains highly secretive around the ownership and administration of AAM.

Most of the employees at the time were told AAM was a civilian entity (AAM1 2018). As one participant observed:

I was basically getting out of the military within several months and I was looking for work and a friend of mine said hey there's a company called Air America working in Washington DC looking for pilots to fly helicopters, so I got interviewed it was a gentleman by the name of Red Dawson who interviewed me. He gave me an application and said fill this out, I filled it out for him and within weeks I came back, and he gave me a letter, said he needed me in Saigon by a specific date. I applied for early release because I wasn't out of the military at that time, and I took that letter and I had to go before Generals and all that at different locations and they disapproved it. My release from the military was disapproved, I get up to the Pentagon and went to the Officer's Personnel Office and this Sergeant says to me 'hey good company this Air America, you're going to like them'. Remember I

was disapproved all the way up and he reaches over with a stamp and boom, approved. I asked when does this take effect and he says, 'you're now a civilian'. It wasn't until later when I saw my record in the military and my release date it said, 'released from active duty in the national interest' and it never even dawned on me...I thought it was a private airline. (Former AAM employee: AAM Air Freight Specialist/Kicker 2018)

The secrecy of ownership served two purposes, it afforded the state plausible deniability and allowed for a lesser duty of care to employees, who were not aware that the enterprise was a government entity. AAM employees knew that the US was not supposed to have a military presence in Laos. Their understanding was that they were bolstering US efforts to stop the spread of Communism and therefore did not question authority (Neuliep 2014). This notion of plausible deniability was alluded to by one interviewee explaining,

the CIA contracted Air America so there was a buffer, so it wouldn't come back on them...everybody became a contractor, it took them 50 years to put three stars on the wall, these guys were smokejumpers...they put a buffer there so you couldn't be identified as working for the government because of the Geneva Convention. (Former AAM employee: Flight Mechanic 2018)

However, it was not the case that all employees were recruited as civilians, some were employed directly by the CIA. Those who knew the true nature of the entity were asked to sign secrecy documents. Not every employee was asked to sign secrecy documents, as only a small number of AAM personnel were selected to carry out operations which required a higher level of security clearance. Those interviewed speculated that it was a generational difference as to why they did not discuss these missions – they were sworn to secrecy, signed official documents and did not discuss their classified missions with anyone. In an interview with another employee, the “need to know” basis of the operation became evident, only some employees knew the origins of the organization:

I only knew Air America was owned by the government through people I talked to, I already suspected that it was a government operation, it was a contract operation but I didn't think it was owned by the government until I was called in to sign official secrecy documents, they told me if I didn't sign they'd have to send me back to the States. (Former AAM employee: AAM Pilot 1 2018)

The use of AAM as a civilian airline, allowed the US government to assign military personnel to non-combatant roles effectively sheep-dipping military

personnel and deploying them in Laos without breaching the Geneva Convention. This modality of force allowed the US to continue covertly gathering intelligence to inform strategy for both the Vietnam War; intercepting Viet Cong along the Ho Chi Minh trail and hindering the Pathet Lao in the northern territories of Laos (Neuliep 2014). This administration of force by the US government allows for the recruitment of non-state actors in a convoluted manner, to ensure plausible deniability for their actions, though it can be argued that despite this novel administration of force deniability was implausible (Cormac and Aldrich 2018: 478). In effect AAM was a hybrid entity, it could allude to state accountability by presenting itself as a private enterprise, and it could allude to corporate accountability by using its hidden state proprietorship to bend for instance regulations.

Under government ownership, AAM was contracted by a number of entities. This is crucial to the understanding of the public–private relationship in this case study, various stakeholders in the US government played a role in the nodal governance structures of the corporate entity. This represents a departure from the “Westphalian model” as noted by Shearing and Wood (2003: 401), in which we observe a move from “state-centred” to multiple nodes of governance.

This nodal governance meant their roles differed from day-to-day. The aid or humanitarian role was most common, while the military role was dependent on security clearance; and clandestine special operations were reserved for those who had signed secrecy documents. This gives an insight into the operations of AAM, while the traditional military are bound by regulations – the civilian front of the company allows for the engagement in a multitude of activities. However, despite the nodal nature of governance, the directive for these activities: humanitarian, combat, and clandestine, came from the state. Plausible deniability is ensured because of the secrecy surrounding the ownership, administration, and activities carried out by contracted civilians – in an effort to invade a country, which is ostensibly off-limits.

The reliance of the US government on AAM to achieve foreign policy objectives and maintain a military presence in Laos is clear. This is also true of the Hmong, who were recruited and managed by the CIA and often relied on AAM for logistical support.

The CIA assisted the Hmong in military operations, interrogation of enemy combatants (Pathet Lao/Viet Minh) and supplied weaponry and aid. This is a typical tactic of proxy warfare, securing allyship for the duration of the conflict (Watts et al. 2023). The activities of the Hmong are documented sporadically in the CIA archives with brief references to progress and troop numbers:

Communist control of the uplands has been resisted by pro-RLG Meo guerrillas, which number some 40,000 which receive extensive CIA support, and which have also helped to man our roadwatch operations along the Ho Chi Minh trail. (Sneider 1969)

However, the Hmong suffered greatly in these military operations and by 1975 were very much a depleted force (Carver Jr 1972). Considering remuneration as a motivating factor for the cooperation of the Hmong to form an irregular force, the difference in financial incentive between US and Hmong forces is clear. When starting out Hmong soldiers were paid around 300 kip per month and when specialized in a higher rank had the potential to earn more, 3000 kip per month (Yang cited in Hillmer 2005). Yang (cited in Hillmer 2005) explained that at this time “one US dollar equals about 80 Laotian monetary units”. The US were able to pay the Hmong very little, in order to carry out the will of the US government on a covert basis. The US were able to fund an irregular force using very little resources while sustaining a meaningful presence in Laos. It appears this was a desirable modality of force due to the plausible deniability, low cost, and limited accountability structures.

Hmong were recruited by the CIA for more specialized roles, dependent on their skillset. As previously mentioned, not all Hmong were educated to the same extent as their Lao peers. This, however, did not seem to hinder the US recruitment of Hmong soldiers, some of whom undertook training,

When I went back home, I was working for the CIA for the first time [1968]... [Interviewer: And what did they have you do?] Translation. So I was doing nothing big, but it was a very interesting experience for me...I was staying with my brother-in-law, and he was stationed in Pha Khao, and the prisoner of war detention centre was located there. So one day we met these CIA officers on the air strip. We were just checking on some airplanes, as they came landing. And so we started talking [with one of these two American officers] and I was telling him about me studying in Australia and he said, ‘Oh, your English is so good! You have to come and work for me. I need a good translator’. So what happened was, when they got a prisoner of war from the battlefield, mostly Vietnamese, they brought him into the detention centre, which is the first point of interview-interrogation. They would then make the prisoner-all tied up-crouch on the ground, and they sit on the desk looking down and interrogating the person in Lao or Vietnamese. And then this would get translated into Lao, because there’s no Vietnamese translator or interpreter there. [It would] get translated into Lao and then from Lao into English for the CIA officer. (Yang cited in Hillmer 2005)

Translation played an incredibly important role in the covert conflict – given the scenario mentioned above. The ability of the US operatives to commandeer Hmong forces into the roles which were pertinent to the overall strategy is evident. This highlights the US as the coordinator of force, with the ability to mobilize foreign irregular forces at their will. However, this relationship relies on an element of secrecy between the US and Hmong forces. Following the completion of the translation Lee (cited in Hillmer 2005) said,

I don't know what he did with it, or if he sent it on. But then a few days later the prisoner would be sent away somewhere, disappear, then other new ones would come in. So it worked like that. And I don't know where they took them, [if] they took them to the jungle, they took them just a few blocks away and did something to them or took them to another prison far away. I don't know. They never tell you.

The covert nature of the conflict meant that many of the details remained secret. However, what is clear from this statement is the chain of command and hierarchy surrounding the relationship. Arguably the Hmong were recruited by the US because of their amiable nature and their low expectations of remuneration, due to the poverty and oppressions they had experienced. Concerningly this points to the manner in which the vulnerability of certain irregular forces, is exploited by state parties to treat human resources in a way that would potentially violate rules governing state military personnel and would also contravene a corporate employer's contractual and regulatory obligation to their employees.

In addition to translation, reconnaissance and intelligence roles were designated to Hmong soldiers to gather information on targets for US-led bombing missions, Yang (cited in Hillmer 2005) explained,

We only observed, we only reported how many cars came in and how many cars left, and whether they came out carrying supplies or soldiers. I stayed there for one month and fifteen days, then that site exploded.

The vulnerability of the Hmong is highlighted in Yang's interview, he explains that an American error led to many civilian casualties in Long Cheng⁷ following a Vietnamese incursion. As the conflict intensified in 1969, the Hmong were consistently engaged in defending key US strongholds,

Yes, the Americans were located in the CIA's headquarters. They ordered then to shoot, and then they used the guns that shoot fire. He shot, it flamed, to direct them to shoot over there but the pilot understood wrongly, so as soon as the gun fired, they dropped the cluster bombs and hit us. Very powerful. It was morning and I must have had good fortune because I came to the room and was about to leave when I noticed there was a cluster bomb right there... It hadn't exploded yet. My friend said, 'Long Yang, there's a CBU right there!' Then I dropped right into the ditch, and it exploded right at that moment. Those, they delay. Then if you go close and your body heat activates it, it explodes. At that time so many of our people got hurt. There were about 200 people injured.

The reckless manner in which the Hmong were deployed during the conflict speaks to the long-term harms experienced as a direct result of the administration of covert engagements. Hmong forces were massively depleted in numbers due to their consistent deployment in combat, leading to the use of child soldiers to prop up US activities. Schofield (cited in Hillmer 2006) notes the overarching objectives pursued by various US government agencies,

Whatever the personal feelings were, we all worked together – we all knew what the goal was, and the goal was – It was the CIA’s job to recruit as many Hmong to fight the North Vietnamese as possible, it was USAID and Pop’s job to make sure that families were taken care of, so that the soldiers would continue to fight. Even in ’69 they were recruiting these ten- and 12-year-old boys, it wasn’t USAID recruiting them, but we allowed it to happen. The CIA allowed VP [Vang Pao] to recruit these kids – it was the idea that some of the older guys didn’t want to be on the front lines. So they had some influence in the right clan or were in the right place, did their time and they didn’t want to be on the front lines anymore. All these kids were conscripted out of the villages, and they were sent out with very little training out on the front lines, to fight hardened North Vietnamese regulars. And it was a slaughter. And when the Hmong were used up, the older Hmong – they were hunters and farmers from the mountains – when they were used as guerrillas to go out and attack in small groups and then run, they did a great job. But when they were put out on the mountain top to fight defensive action against well-trained North Vietnamese regulars, it was no contest, especially when the NVA went up against these ten-year-old kids with two weeks of training. There was no place to run, so they just stayed and died.

The covert force amplification is obvious from the role of both AAM and the Hmong. The type of clandestine activities noted would not have been possible without the covert employment of these non-state actors. The administration of force was outsourced to enable the completion of a wide range of US objectives overseas, in a manner that was clandestine, thus allowing the state to breach its international obligations without suffering censure. And this clandestine activity was administered through an arrangement that diminished how force was governed, increasing the risk of harm to both civilians and US proxy operatives.

One of the most significant findings of the research relates to the ownership of AAM. AAM was owned by the US government using a complex ownership structure (CIA 1972). In order to retain this both during and after the covert operations in Laos, addition illicit activity was needed. For example, it is evident that in the case of AAM, the awarding of contracts on a no-bid basis was potentially corrupt. As a US Congress Senate Select Committee noted:

Air America and other proprietaries received many important airlift and aircraft maintenance contracts even at a time when this meant omitting other small carriers from contracts which they might otherwise have expected to win. With the fulfilment of these contracts the CIA was able to make use of such flights for its own operational purposes and more importantly to give the appearance that Air America was a healthy and normal hard-working airline among its competition. (United States Congress 1976: 352)

There is evidence of deviance in the administration of “no-bid” contracts to AAM, which was justified by the US government (Holifield 1959; Rosenbaum 2004).

Alongside evidence of contract fixing, is the derogation of public employer duties to personnel AAM contractors have never been officially recognized as government employees. Therefore, former AAM employees do not receive civil retirement credits. A former employee, who was contracted by the CIA and signed official secrecy documents explained his situation:

I wrote to the agency asking for 9 years of service credit with Air America and they sent me a letter back within the last two or three months and said we have no record of you ever working for Air America. I sent them documentation...and they still came back and said they have no record of me. For some reason they don't want us to get any kind of benefits. We used military aircraft, repainted in civilian colours, we were government employees. (Former AAM employee: AAM Pilot 2 2018)

As noted by the respondent, the aircraft used were US military aircraft, repainted with the AAM insignia. On occasion, the tail numbers of the aircraft were removed, dependent on the operation (Leeker 2015). This reinforces the secrecy surrounding ownership of AAM. These employees of the state, through a sleight of hand, were denied full compensation for their work.

These ancillary harms and potentially illicit forms of state activity can also be observed in the US state relationship with the Hmong. The US had the power to recruit these irregular forces through various agencies; when the arrangement is no longer in the interests of the US the partnership is dissolved, often to the detriment of the irregular force (Blake 1976). This can be done because the contracting relationship is not formalized with written documentation, and the irregular force is not organized as a legal entity, which places irregular force personnel in a position of weakness, and vulnerable to abuse by their employers. The structure and processes through which the Hmong were managed in the conflict, depended on CIA operatives in the country. The larger strategic role was determined by the State Department, Joint Chiefs of Staff and the President (through successive administrations). Similarly, to AAM, this secretive administration evaded public and Congressional scrutiny.

As a totality, what this evidence points to is with the legitimate opportunity structure for US intervention in Laos inaccessible under the 1962 Geneva Convention, the strategy becomes deviant and is reinforced through norm transformation (Kramer et al. 2002; Krahmman 2013). The decision to intervene using a covert strategy with irregular forces is not a random occurrence. It is meticulously planned, safeguarding the state from repercussions, such as international responses and public scrutiny (Lunch and Sperlich 1979). The neutrality of Laos and the rhetoric surrounding this, played a role in legitimizing the covert administration of force. The US were consistently searching for information on the communist political movement Pathet Lao, North Vietnamese Army, or Viet Cong forces in Laos, to report the incursion to the International Control Commission and thus legitimize a military response (Hilsman 1962). This allowed the US to maintain a covert presence of former military personnel “sheep-dipped” and returned to Laos in civilian clothing (Smith 1963; Rusk 1963).

While this has been widely recognized as a form of state crime, albeit not using that exact phrase, the focus has tended to remain at the macro scale, rather than also zooming into the everyday administration of illicit force and its potential relevance to state crime studies. What this study reveals is that not only did the US covert operation violate international undertakings, it led to a range of ancillary harms and illicit activities on the ground in Laos. This took place across a spectrum. There was the fraud and potential corruption used to fix contracts awarded to AAM, the state enabling of certain illicit industries in order to reward Hmong for their service, the derogation of state duties to military personnel, and finally the reckless weaponization of the Hmong people, which escalated violence and led to systematic human rights abuses.

In this final substantive section of this article, an attempt will be made to zoom out the analytical lens to consider how harm was cultivated by a broader set of political-economic arrangements using state–corporate crime theory.

Explaining Deviant Outsourcing in Laos: An Integrated Theoretical Approach

Kramer et al. (2002) established an integrated framework for state–corporate crime to address an under analyzed avenue of organizational crime, examining the public-private nexus of the Challenger disaster. This led to a thorough examination of government and private enterprise through three “levels of analysis” which are institutional, organizational, and individual interactions, alongside three “catalysts for action” namely; motivation, opportunity structure and operability of control (Kramer et al. 2002). In this framework Kramer et al. (2002: 273) define these analytical cross-sections as “key factors that will contribute to or restrain organizational

Outsourcing State Security				
Level of Analysis	Motivation	Opportunity Structure	Operationality of Control	Norm change
Institutional (history, political economy, culture)	Unilateralism US hegemony Economic pressure	Covert contracting Culture of fear Plausible deniability Limited war	International responses Media scrutiny Complicity within government	Changes in behaviour and attitudes State responses to norm violation
Organizational (structure and process)	Patriotism Communist Economic gain	Corruption Creation of (illegal) means Normalization of deviance	No-bid contracts Guerrilla tactics Accountability structures	Changes in laws and regulations surrounding covert employment of non-state actors
Interaction (face-to-face interaction, individual action)	Cultural values Individual goals Profit	Lack of knowledge Humanitarian aid Training	Consequences of employment Social harms	State monopoly reinforced through coordination of non-state/irregular forces

Figure 1 An Integrated Theoretical Model of Criminogenic Security Governance

(adapted from Kramer et al. 2002)

deviance at each intersection of a catalyst for action and a level of analysis”. Thus, their integrated framework for the study of state-corporate crime, because it looks at deviance at the intersection of public and private power, appears a good fit to examine the US covert conflict in Laos. This analysis has explored the use of non-state actors as an alternative to corporations to develop an under-theorized area of state crime: the employment of irregular forces in covert conflict (see Figure 1).

Motivation

The motivations of state and irregular forces, complemented by the strategic and geopolitical factors influencing this modality of security, provide insight as to how and why the US opted for a plurality of force in Laos. The US government were under international pressure to de-escalate its military presence in Laos. This led to the need for a change in strategy from overt to covert intervention. In 1962, it appeared that President Kennedy paved the way for a ceasefire in Laos, calling for the preservation of the country’s neutrality. The implementation of the “Declaration of the Neutrality of Laos” directly impacted the mode of force used by the US in Laos (UN 1962). The Geneva Convention represented an impediment to US foreign policy objectives in SE Asia, subsequently a deviant opportunity structure was implemented.

This covert approach to intervention in Laos achieved two key objectives, firstly, it allowed the US to assert dominance over what they saw as a USSR-supported communist alliance. While negotiations took place to end the conflict in Laos, the US administration was implementing tactics to undermine the Convention but to

further their own hegemonic objective (Helms 1981). Second, the secrecy of their involvement allowed the US to use subversive tactics without scrutiny from Congress, given that war was not declared in the region (Harriman 1963). These subversive tactics refer to regular air sorties and the support and training of an irregular force, the Hmong (Sullivan 1965). The US effectively created the conditions through which they could further their involvement in Laos. The use of a covert irregular force allowed for less regulation and less scrutiny (Harriman 1963).

Opportunity Structure

The US modality of force in Laos was actioned through an illicit opportunity structure through a multifactorial process. The threat of Communism provided the reasoning for the initial intervention – however, what is apparent is that the subversive tactics employed by the US government acted as a catalyst for a covert strategy. The tactics referred to are the undermining of the 1954 Accords, the continued US presence in Laos and support to the RLG and the Hmong. The absence of a legitimate avenue for US intervention in Laos, because of the 1962 Convention led to alternative methods. The deviant opportunity structure was forged through international responses and unchecked powers of the CIA, State Department and Defense Department (Bingham 1971).

The public–private nexus of secrecy structures, potential for fraudulent activities and corruption, paired with the apparent lack of accountability for actors employed by the state, overtly or covertly allows for the state to pursue their objectives without public or Congressional scrutiny (Moran 2015). What this signifies is the existence of a plurality of force, prior to the end of the Cold War instead of a state monopoly. Drawing from the data, this plurality is informed, by the state’s perception of necessity when the geopolitical and strategic objectives are restrained by international responses and economic pressure. Where there is no legitimate opportunity structure for the state to intervene and achieve its objectives – this security gap is filled by irregular forces (Moran 2015). While this modality of force is not new, the data suggests that the administration of these actors is conducive to the incidence of state crime.

Norm Change

At an institutional level, the motivations of the US state appeared in the literature review to be resultant of the political economy (Gaiduk 2003; Smith 2009; Ngoei 2019). The threat of Communism was widely acknowledged as the catalyst for covert intervention in Laos. However, upon further analysis it is evident that the US acted unilaterally despite international responses suggesting restraint in

Southeast Asia (Waite 2012; Stuart-Fox 1997). Considering the wider implications of the Vietnam War, the US were at an economic disadvantage, which in turn, increased the desirability of a covert escalation using irregular forces.

Despite the government ownership of AAM, during the time period under study 1962–1975, this was not public knowledge. Therefore the US government was afforded plausible deniability for the actions of AAM personnel, as with the Hmong, who were further separated from the state. The criminogenic nature of security governance is evidenced through the acceptance of norm change at an institutional level. The acceptability of outsourcing to private forces meant the question of deviance and illegality was not as robust as it should have been. The integration of irregular forces to carry out the duties typically aligned with the state security apparatus faced little scrutiny and no repercussions at both a national and international level. It is through this organizational deviance that a collective behaviour is reinforced, leading to norm transformation through continued implementation of the plurality of power (Kramer et al. 2002).

Harm

Using an amalgam of force provision both overt and covert to achieve policy objectives led to a variety of harms. The notion of criminogenic security governance can be applied to periods of conflict to determine state crimes as a result of state action by proxy. The harm resulting from the employment of irregular actors begins at the institutional level (Kramer et al. 2002). The human consequences of criminogenic security governance vary dependent on the entity. As demonstrated, AAM personnel and the Hmong differ in their administration and their role in the conflict and therefore experienced different consequences in the aftermath of the conflict. However, it is important to acknowledge that both groups were subject to social harm because of their employment.

For the Hmong, the social harm transcends generations. In the aftermath of conflict, mass displacement, re-education camps and death threatened the group (Pinyorat 2005; UNPO 2020). The Hmong refugees who resettled in the US, faced cultural and social upheaval, language barriers, and racist abuse (Holpuch 2019). Many Hmong in Laos still face persecution as a direct result of the plurality of power led by the US government.

At a macro level, AAM personnel suffered social harm due to their ownership. Their ongoing campaign for recognition from the US government represents the deception of the state in its covert security governance (Scott 2017). Considering their past military experience and patriotic values, the denial of recognition for their actions is hurtful for the remaining members. At an individual level, for those with a military service background, the financial burden due to exclusion from

receiving Federal retirement credit has had a lasting impact on the group. From the perspective of the Hmong and of the wider civilian population in Laos, harm intensified due to the US bombing campaign, with unexploded ordinance causing 20,000 deaths since the end of the conflict (Bolingbroke-Kent 2023).

Conclusion

This research has provided a historical narrative to a contemporary issue. The prevalence of PMSCs and irregular forces in various conflicts has been informed by the precedent set by historical covert conflicts, although this is rarely discussed in the literature. As such, the findings of this article alluded to AAM as the prototype for the modern-day PMSC. Although it was a state-owned and operated enterprise, its identity and role in the conflict is comparable to that of modern-day PMSCs in the Iraq and Afghanistan Wars (Briody 2004; Rosenbaum 2004; Boot 2013).

While the “headline” of this intervention was the waging of an illegal war through covert means, this headline in some ways conceals ancillary forms of state deviance that have not been fully acknowledged or investigated, yet are being echoed today in contemporary outsourced military operations. In particular, this research has documented how the outsourcing arrangements both limited the responsibility and accountability of the state with respect to personnel from the AAM and the Hmong militias, while also permitting in the case of the Hmong a more reckless approach to the use of service personnel than would have been possible with conventional state forces. Furthermore, the veterans of the conflict in Laos have not received the same support or care afforded to conventional military veterans, with the Hmong, in particular, facing bitter recriminations in the aftermath of US withdrawal. The contracting of the AAM also pointed to the myriad of secrecy structures and seemingly corrupt procurement methods that have become a sustained feature of the privatization of military force.

This in totality points to the way in which outsourcing creates a series of additional links in the chain of security governance and administration, which serves to dilute accountability and oversight mechanisms, creating a context more primed for abuse, particularly in scenarios where military planners are experiencing significant strain and are looking for “low cost” solutions. This then exacerbates the risk of harm both to non-combatants and combatants alike. This case also points to the manner in which the contracting out of military force, in a context where contractors can set up elaborate secrecy structures, creates an environment where military governance becomes impacted by corruption and fraud. While the conflict in Laos was an incipient modality of modern military outsourcing, it contained the forms of state–corporate deviance which are emerging as some of the most significant challenges in current military theatres where force is being

outsourced to corporate and irregular actors. And it also demonstrates that in order to understand and respond to these forms of state–corporate deviance there is a need to study the administration of force at a micro and meso level, in order to appreciate the relationship between governance, administration of force, and harm. This requires, in turn, a preparedness to seriously engage with private military and irregular force combatants who have an acute knowledge of this relationship, which can help build theory and develop evidence-based policy solutions that focus on harm minimization and norm enforcement.

Notes

1. The term security governance is concerned with the investigation of multiple security providers “above and beyond the state...potentially enhancing the governing and provision of security” (see Bourne 2013: 83).
2. State crime can refer to criminal acts perpetrated directly by state actors or by proxy. It is accepted within the literature that states routinely employ “irregulars”, however, their recruitment, financial relationship, accountability and role in conflict remain largely covert (see Moran 2015).
3. We acknowledge that the conflict in Laos is referred to in the literature as a war, the Laotian civil war, a shadow war, an illegal war or secret war. For the purposes of this article the terminology covert conflict is used.
4. The research that forms the basis of this article was conducted by the lead author, while she was a doctoral candidate at Ulster University, Northern Ireland.
5. The Hmong Oral History project contains resources on the Secret War in Southeast Asia and Hmong culture in Laos. It can be accessed by visiting <https://www.csp.edu/hmong-oral-history-project/hmong-oral-history-project-interviews/>.
6. See CIA, Review of Air Support, “The company [AAM] contracts its services in an overt manner and at competitive prices to the US Army, Navy and Air Force and to USAID for a variety of flying and maintenance engineering activities throughout the Far East”.
7. Long Cheng is also known as Long Tieng, Long Chieng, Lima Site 20a, 20 Alternate (see Moïse 2005: 239).

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