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Martha L. Minow, Nominee to the
Board of the Legal Services
Corporation

Who is Martha L. Minow?

On August 6, 2009 President Obama nominated Martha L. Minow for a position on the board of the Legal Services Corporation.

Minow is an academic with a history of questionable scholarship on issues of national security.

Minow appears to be in the camp of those who engage in reflexive hand-wringing in response to the war on terror. In 2007 she penned a law review article on this subject. Why did she write the article? Because:

Military misconduct since the United States launched the war against terrorism after 9/11 has made the issue of following orders one of public salience. Thus, just as the Marine Corps filed charges of murder and conspiracy after the shooting of a civilian in Iraq, the media reported investigations of a separate case in which Marines apparently killed at least twenty-four Iraqi civilians in Haditha and then tried to cover it up. Fn.1.

So much for the presumption of innocence, she must think that an allegation against our troops is as good as a conviction.

Minow disfavors the use of contractors by the military. She notes situations where contractors

or their employees have engaged in questionable behavior and then states:

“Minow’s severe dislike for private sector contractors will surely lead to greater costs and inefficiency for the Legal Services Corporation if she is confirmed. Her childlike faith that the government can do it better than the free market is misplaced and dangerous .”

-Bill Wilson, President, Americans for Limited Government

The prospect of unaccountable private military contractors is disturbing, but also inconsistent with growing demands for compliance with human rights globally. Fn.2.

Later she states:

The reliance on contractors -- even if subject to

adequate oversight and appropriate procurement practices -- risks jeopardy to the quality of military activities, the national interest, and democratic values. Fn.3.

Minow dislikes people using their past experience to gain jobs with private sector contractors.

Minow’s Background

Dean of the Faculty of Law,
Harvard Law School

Professor, Harvard Law School

Senior Fellow, Harvard Society of
Fellows

Lecturer, Harvard Graduate
School of Education

EDUCATION

A.B., University of Michigan

Ed.M., Harvard Graduate School
of Education

J.D., Yale Law School

What you really need to know about Minow

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The military can be harmed in a different way if the option of retiring to a new career with a better-paid private contractor appeals to talented officers. Fn.4.

Minow even goes so far as to allege that the use of contractors is a danger to democracy.

Reliance on private contractors also risks exposure to war profiteering: the exploitation of the chaos and fear of wartime by suppliers of materials to the military. Resisting war profiteering has been a governmental goal as long as this nation has existed. War profiteering is a serious problem not only because it diverts public monies -- the money of the citizens -- to private hands through over-charging and fraud, but also because it can jeopardize peacemaking and broader confidence in government. These issues overshadow but should not obscure the problems of former government officials finding employment with contractors after helping them build connections with the government.

Minow concludes the article on contractors by stating:

Signs of the decline of the nation-state come in many contexts besides the rising use of private military companies. Nonetheless, the growing role of private military companies is a symptom of a larger, dangerous challenge to the aspirations of order in the world represented by the system of nation-states and the rule of law. Fn.6.

Minow's writings are at times almost paranoid. Consider the following:

As we speak, public safety workers are still unearthing bodies at Ground Zero where the World Trade Center used to stand. Human insecurity takes on new dimensions as anthrax and smallpox become tools of bio-terrorism rather than naturally occurring, but nearly cured, diseases. Misunderstandings seem to swamp moments of mutual comprehension. Cultural conflict spells not only discomfort and confusion, but death. The powerful complain of their powerlessness. The powerless become pawns in other people's murderous games. Fn.7.

Minow laments the budget situation of the Legal Services Corporation:

Yet, gaining access to a legal services lawyer is becoming increasingly more difficult. Between 1980 and 1998, the budget for the LSC fell \$ 17 million in non-inflation-adjusted dollars. In fiscal year 2000, LSC's budget was slashed by \$ 35 million from what was requested. Legal services offices, as a result, must engage daily in triage. Non-emergency matters - including housing, child custody and public benefits - often get deferred or never addressed by LSC. While some communities operate solely with attorneys who take turns visiting from other communities, other legal services offices are forced to close down. In community after community, legal aid for the poor has been reduced despite the proliferation of unmet needs. Fn.8.

To put this in perspective, the budget request for the Corporation for fiscal year 2010 was \$485.8 million. Fn.9. If confirmed, expect to see Minow push for additional spending on the Corporation.

Minor is a major political contributor to the Democrats having given over \$25,000 since 2001.

Sources for further reading:

Fn.1. Martha Minow, *Living Up to Rules, Holding Soldiers Responsible for Abusive Conduct and the Dilemma of Superior Orders Defence*, 52 MCGILL L.J. 1, 9 (2007). Available online at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1013632. (Accessed February 18, 2010.)

Fn.2. Martha Minow, *Outsourcing Power: How Privatizing Military Efforts Challenges Accountability, Professionalism, and Democracy*, 46 B.C.L. REV. 989, 995 (2005).

Fn.3. *Outsourcing Power*, *supra*, at 1017.

Fn.4. *Outsourcing Power*, *supra*, at 1019.

Fn.5. *Outsourcing Power*, *supra*, at 1022-3.

Fn.6. *Outsourcing Power*, *supra*, at 1026.

Fn.7. Martha Minow, *Lawyering at the Margins: Lawyering for Human Dignity*, 11 AM. U. J. GENDER SOC. POL'Y & L. 143, 145-6 (2003)

Fn.8. *Lawyering at the Margins*, *supra*, at 148.

Fn.9. LSC's FY 2010 Budget in Brief, Legal Services Corporation website. Available online at: <http://www.lsc.gov/about/budget.php>. (Accessed February 18, 2010.)

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