CHAPTER 2

PRIVATE AND PUBLIC SECURITY IN POST-WAR DEMOCRATIC REPUBLIC OF CONGO

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Introduction

In the past decades the private security industry has come to play an increasingly significant role in the security sector on the African continent. The private security sector includes a wide variety of services and activities. Without getting into a discussion of definitions, a categorisation can be made, based on these activities and services: combat and operational support, military advice and training, arms procurement, intelligence gathering, security and crime prevention services and logistical support (FCO 2002:10). This article focuses on the part of the private security industry that is operating legally. The arms trade, armed private military companies (PMCs) and private security companies (PSCs), training and military support to non-state actors, and mercenarism have not been included. This does not mean that companies involved in combat and operational support, training and advice, and even mercenaries are not active in the Congo (DRC). The arms trade and arms procurement continue even in the post-war period, but on the verge of illegality, especially with regards to the UN arms embargo. Arms procurement should therefore be regarded as illegal trade and smuggling, rather than part of the private security industry.

In the post-war period, the security sector in the Congo has been subject to numerous multilateral and bilateral assistance programmes, ranging from peacekeeping and peace enforcement by the United Nations Mission in the Democratic Republic of Congo (Monuc) to security sector reform assistance and bilateral training programmes of the national security forces. The use of PMCs for the externalisation of peacekeeping and peace enforcement missions is an issue of discussion after the disastrous peacekeeping experiences in the 1990s (Bosnia, Rwanda, Somalia) and the apparent success of Executive Outcomes in Angola and Sierra Leone (Ghebali 2006:223). The presence of these multilateral and bilateral programmes has prevented a/n (official) market for the private sector involved in combat and operational support or military advice and training. Monuc, as well as the EU Security Sector Reform Mission (Eusec), and the EU Police Mission (Eupol) and the bilateral programmes, has not contracted private companies for the execution of its

Source: Map No. 4007 Rev. 8, Department of Public Information Cartographic Section, United Nations, January 2004

mandates. On the other hand, the presence of these multinational actors creates a sizable market for logistic support (aviation, building of bases, camps and field offices, guarding and security, etc), which is often outsourced to private companies.

This study thus focuses on private security companies that are engaged in the provision of security and crime prevention, guarding and response, security advice and risk assessment. Because the private and public security sectors cooperate with one another, are interwoven, and their roles are ill defined, the analysis of the private sector is made in the context of the functioning of the state security forces. Special reference is made to private security in the mining industry as the most important industrial sector in the country.

Owing to the vastness of the country and its varied regional dynamics, limited availability resources and a short time span, it was decided to focus this research on Kinshasa and Lubumbashi. Kinshasa is the capital city, where the private security industry in the form of PSCs is most developed. Lubumbashi is the commercial heart of the country and home to its mining industry. When the author refers to the Congo and the Congolese, these statements are based on research in Kinshasa and the Lubumbashi area only.

Political and security context: post-conflict transition and state failure

Conflict and post-conflict transition

The DRC is a vast country[1] in the centre of Africa in the problematic and conflict-ridden Great Lakes Region. The population[2] is mainly rural. Kinshasa counts roughly 7.8 million inhabitants and Lubumbashi, the second largest city of the country, 1.4 million (EIU 2006:3). The Congo is known for its richness in diamonds, gold, coltan, copper, timber and other natural resources, but decades of mismanagement under Mobutu, followed by civil war and further mismanagement under the war and post-war governments, have made a number of people very rich, while the population remains poverty-stricken. With a gross domestic product (GDP) per head of US$123, Congo is one of the poorest countries in the region (EIU 2006:23). Early in 2007, the DRC ranked number 167 (of 177) on the human development index.[3]

Many of the Congo's nine neighbouring states are unstable and suffer from internal conflict or are in post-conflict transition. Stability in the Congo is often seen as the key to stability in the Great Lakes Region. But its recent history has been one of ongoing instability and crisis, regime changes and civil war. The first Congolese war (1996–1997) had its origins in the failure of the Zairean state,[4] the genocide in neighbouring Rwanda, followed by a security crisis in Zaïre, and the inability of the Mobutu regime to respond adequately to the spill-over of the Rwandan crisis to Zaïre. Zaïre had failed completely under the decade-long Mobutu regime: the state was practically

bankrupt, politically an empty shell, and unable to provide security for its population. While potentially one of the richest countries in the world, none of this wealth reached the Zairean population. Under these conditions of state weakness, the challenges posed by the crisis in Rwanda easily spilled over to Zaïre to become a new Zairean crisis. With support from Rwanda and Uganda, an alliance of four rebellious or opposition movements, known as AFDL *(Alliance des Forces Armées pour la Libération du Congo)* under the leadership of Laurent-Désiré Kabila, launched a war against the Mobutu regime in September 1996, accessing power on 17 May 1997.

It was not long before Kabila's coalition fell apart, both within the Congo and among its external supporters. By August 1998 the Congo was again in a state of war in which many neighbouring countries and Congolese armed movements were involved. Within a short period, the war had become a complex patchwork of armed rebellions and foreign armies roaming the Congo to pursue their own personal and/or national interests, while the country was sinking into an ever-increasing regional and humanitarian crisis. The country was de facto divided into five parts, each controlled by one of the belligerents, the government, RCD-Goma, MLC, RCD-N and RCD-K/ML. The war was never characterised by heavy combat between the belligerents. The tragedy of the second Congolese war was the plunder its wealth by Congolese factions and their godfathers (Rwanda, Uganda, Zimbabwe, etc); the extreme brutality towards the civil population (extortion, rape, massacres); and the rise and manipulation of local ethnic conflicts in the context of civil war with ever-increasing poverty and a deteriorating humanitarian situation.

After the Lusaka ceasefire agreement in 1999, which was the first step towards the Sun City peace agreement, Monuc was launched. In the following years it steadily grew in mandate and size, receiving a chapter VII mandate for peace enforcement in the Ituri region, in the far north-east of the country.[5] Monuc became the largest UN peacekeeping mission, with nearly 17 000 military contingents. In the Ituri region Monuc troops supported *Forces Armées de la République Démocratique du Congo* (FARDC) in offensives against armed rebel movements.

But it was only after the assassination of Laurent-Désiré Kabila in January 2001 and the accession to power of his son Joseph Kabila that the process towards a peace agreement began to move. In December 2002, after a long period of negotiations, the *Accord Global et Inclusif* (AGI) was signed. The agreement arranged for a transition period, leading to democratic elections. During this time, power would be shared by the signatories of the accord: former belligerents, the political opposition, and civil society. The transition

period finally ended after the 2006 presidential and parliamentary elections. Joseph Kabila was installed as president in December 2006, and a new government was installed in February 2007.

Much was achieved in the years of political transition. The peace accord held, and a relapse into large-scale conflict appears unlikely in the short term. A new constitution was drafted and adopted after a popular referendum was held, which resulted in overwhelming support for the new constitution.[6] It was a great achievement that elections were held in a peaceful and, according to national and international observers, free and fair manner. The elections were declared a 'logistical miracle' in a country the size of Europe, but without infrastructure. Nevertheless, a great deal of work lies ahead. The country is far from stable or freed from its crisis.

State failure and insecurity

Although the peace accord held, the country has been in a state of low intensity conflict, or 'violent peace' (Aust & Jaspers 2006). The issue of security should be understood in the much broader context of state failure. A deteriorating security situation is the first signal of state failure, and improving security is a *sine qua non* for state reconstruction after failure. Security as a political good to be delivered by the state includes protection against cross-border invasions, internal conflict, crime and terrorism. Human security and the protection of human rights are also important security issues. Security is a basic and first need for any functioning state, and is the foundation for development, state building and post-war reconstruction. Congo is a failed state. It experienced crises at various levels:

- Enduring conflict
- Inter-communal enmity
- No state control over the whole territory
- Increase of criminal violence
- Flawed and ineffective institutions
- Deteriorating infrastructure
- Economic crisis (although rising economic opportunities for the elite)
- Corruption and predation on a destructive scale
- Declining GDP, food shortages
- Loss and even disappearance of state legitimacy

The Congo is struggling to transform from a failed to a functioning state. Key to this process is the delivery of security by the state. Security sector

reform has therefore been one of the major points on the transition and post-transition agenda. This process focused initially on the integration of former rebel armies into one national army, while downsizing the armed forces. Second, the functions and role of the armed forces had to be redefined. Evidently, such processes are long term (according to experts they require at least 15 years) and are therefore still ongoing. At the end of the war, the total number of armed forces (government and rebel movements) was estimated to be somewhere between 130 000 and 200 000. The targeted size of the FARDC is 120 000. The current size of the police force is estimated at 104 000 (GMRRR 2005:23). The targeted size of the national police after reform is about 70 000 (Monuc 2006).

Insecurity in the Congo takes various forms. In the eastern provinces the lack of state presence and weak capacity of the armed forces enable armed militias, and even dissidents from the national army, to continue to exist and threaten the population. There is general lack of human security, mainly as a result of poverty from the deficiency of food security and access to medical care. Occasionally politically related violent clashes between former belligerents occur in Kinshasa. In some areas there is inter-communal enmity, and small armed groups and rebel groups from neighbouring countries maintain a presence. Impunity and the lack of capacity of the public security forces to protect the population mean that the people are generally in a very unprotected and insecure position.

An important security problem stems from the Congolese armed forces themselves. Being underpaid (or not paid at all), ill equipped and ill fed, the army and police have low morale and, seeking to survive, prey on the population. This ranges from the traffic police demanding money from road users at random, to extortion of artisanal diggers by the mining police, to violent predation by the army, who extort money and food from the population. There appears to be a lack of will at political level as well as among the military elite to improve conditions within the armed forces in order to transform them from security threats to security providers. Consequently, the population has little or no confidence in its army and police, perceiving them as threats rather than a protection force. The state of the security forces, reflected in their behaviour as predators, leaves a vacuum of security delivery into which the private sector is eager to step.

Insecurity in the Congo is thus not primarily the result of crime; there is little criminality in the sense of armed robberies, car-jacking, theft and the like. Crime statistics do not exist, but the general assessment is that Kinshasa has a high level of insecurity outside the city centre, caused

mainly by the behaviour of police and armed forces. However, the affluent parts of the city, where expatriates and wealthy Congolese live, are not subject to the same predatory behaviour, and criminality is very low. Kinshasa has occasionally experienced pillage and plunder as a side-effect of armed clashes in the city (1997, 2006, 2007) and as the result of large-scale popular unrest (1991, 1993).

Politicised, privatised and commercialised security

Security provision is a key political good to be delivered by the state. Security is negatively affected by the current condition of the state and governance. Governance is weak and ineffective. There is a lack of division between the public and the private domain, and predation and corruption are so systemic that the state can be described as criminalised (Bayart et al 1999). In public security, a number of dynamics occur. First, security is politicised. The peace agreement was a political accord between the new national security forces and former belligerents, in which a number of armed groups joined together in the transitional institutions. As a result of a high level of mutual distrust and lack of confidence in the peace accord, the former belligerents continued to rely on loyalty within the now official national security forces.

The army reintegration process was occasionally manipulated by former belligerents in order to maintain loyalty ties. The Republican Guard (GR) is in effect President Kabila's guard, a small army of about 15 000, loyal not to the president as an institution, but to Kabila as an individual. Similarly, the former vice-presidents and rebel movement leaders Jean-Pierre Bemba and Azarias Ruberwa maintained small armed forces as bodyguards. These armed forces clashed in Kinshasa in August and November 2006, and again in March 2007. A legacy of the war that has not been overcome is that political power depends on support from the armed forces.

The second dynamic is the privatisation of security. The public security forces are widely engaged to protect private interests. Partly as a result of the appalling conditions of the army and police, and partly owing to corruption and mismanagement, state security forces do not fulfil the role of public security provider. Seeking extra income and filling their pockets, the police and army engage in a series of privatised uses of state assets. This involves the protection of the commercial interests of the (political) elite and the involvement of police, army and customs officials in trafficking, but also the use of police as guards at residences and shops, or directly at companies.

In the current situation, in which the public security forces operate as privatised forces rather than public ones, predate on the population, and lack capacity, people cannot rely on them, so they turn to the private security sector. In the context of the failed state and the lack of service delivery, security has become a commodity. As a commodity, it is therefore available only to those who can afford it, whereas those who cannot are often victims of predation by the public security forces. It is in this context that the private security industry is situated in the Congo.

The private security industry in the Congo

The rise of the private security industry in the Congo

The first PSCs were founded in the late 1980s, although the sector initially remained small. Its expansion came in two phases, which were activated by growing insecurity in the late Mobutu period and the war. The industry was triggered by the two pillages in 1991 and 1993, in which Kinshasa was massively plundered. The second period of growth was after the two wars (1996–1997 and 1998–2003), particularly the first war and the arrival of Kabila's AFDL *(Alliance des Forces Armées pour la Libération du Congo)* troops in Kinshasa (which caused a third pillage).

In the late 1980s and early 1990s the sector counted no more than a handful of companies. Currently between 35 and 45 PSCs are registered, together providing employment to roughly 25 000 people. (There is no official data on the number of registered companies or the size of the sector in terms of employees.) Compared with the police (targeted size 70 000) and FARDC (targeted size 120 000), the private sector is still relatively small for a country the size of the Congo. But the private security sector is mainly urban based in a country in which the population is predominantly rural.

The development of the sector in the Congo can be explained by a number of factors. First, the failure of the state created a security gap. For years, state forces were unable to provide a minimal level of security. Affluent citizens and companies sought security from the private sector in response to weak public security and the general instability of the country. Interestingly enough, there appears to be a perceived insecurity rather than an effective insecurity. Although crime rates and statistics do not exist, the general assessment by security companies is that crime is relatively low, consisting primarily of pick-pocketing and robberies. The real criminality problem is organised and systemic corruption and predation at governance level. The vacuum left by

ineffective police creates a market for PSCs. This includes crime prevention, guarding and alarm and response, and other police activities such as patrolling, assistance after vehicle breakdowns and accidents, first aid, and the provision of transport to hospitals and first-aid clinics.

The second reason for the boom in the private security industry is the rapid growth of internationals working for international non-governmental organisations (INGOs), and the multilateral organisations and companies that arrived in the country for the post-conflict transition and reconstruction programmes. If the country remains relatively stable in the post-electoral period, new investments are expected, which will create an expanding market for the industry. Most PSCs expect significant growth in 2007. Some recognise that the improving stability and low crime levels may reduce clients' perceived insecurity. This will have a negative effect on the market, but as long as the police force remains ineffective – which is unlikely to change significantly in the short to medium term – there will be a demand for PSCs.

PSCs, their clients and services

The majority of the 35–45 registered companies are not operational. They have the registration, but lack the clients and/or the operational capacity.[7] Within the sector itself it is widely believed that the most of these ineffective companies are not in the least interested in private security as a business, but use their licences to gain access to state security forces (see below) and as a cover for other semi-legal business. Currently, the market for residential and commercial clients in Kinshasa is dominated by a few security companies. (See table 1, which does not include all operational PSCs. Operative PSCs, which are not included in the table include Mamba Security, Likonzi, Infinitive, Safetech and Protec.)

Late in 2006, G4S bought DSA, thereby establishing a market-dominating firm. The merger will come into effect in 2007. G4S and DSA are international PSCs, whereas most other companies are Congolese. It is striking to note the extent to which the ownership of these Congolese companies is in the hands of expatriates. This is in line with other commercial sectors in the DRC, most of which are dominated by expatriates from Lebanon, Israel, Belgium and South Africa. It appears that clients prefer to work with internationals rather than Congolese PSCs and it is difficult for Congolese PSCs to acquire a firm footing on the market. The spokesperson of one Congolese-owned PSC declared that recently an expatriate executive director had been installed

Table 1 Overview of PSCs in Kinshasa

PSC	Origin and ownership	Operational in DRC since	Services provided	Operational scale	Employees
Group 4 Securicor	International company listed on the London and Copenhagen stock exchanges	2001	Guarding, gatekeeping and access control, alarm and response, cash-in- transit	Nationwide	2 500 5 expatriates (manage-ment)
Defence Systems Africa	Until December 2006 , when DSA was bought by G4S, it was a subsidiary of De Moerloose Group (Belgian)	1984	Guarding, gatekeeping and access control, alarm and response, trained dogs	Nationwide	2 600 3 expatriates (manage-ment)
Delta Protection	Congolese Ownership Lebanese	2000	Guarding, gatekeeping and access control, alarm and response, GPRS tracking	Nationwide	4 000 25 expatriates (manage-ment)
ASCO	Congolese. Ownership Belgian	2000	Guarding, gate keeping and access control, alarm and response, cash-in-transit, diamond transport	Kinshasa	550 Manage-ment by expatriates
Magenya Protection	Congolese; Ownership 1/5 Congolese and 4/5 Israeli	1993	Guarding, gatekeeping and access control, alarm and response	Kinshasa, Kisangani, Lubumbashi	1 500 5 expatriates (management)
Escokin	Congolese Ownership Congolese	1987	Guarding, gatekeeping and access control, alarm and response, gardening, drivers, petrol station management, cleaners	Kinshasa	1,700 No expatriates

because clients 'want to deal with an ex-pat, not with Congolese'.[8] Since then the company has been growing steadily. OSS, a PSC specialising in security in the mining industry, stated that Miba, the state's diamond mining company, does not want Congolese security guards, but only expatriates.[9] Another Congolese-owned PSC, Escokin, is sizable, with 1 700 employees, but security and guarding are only part of its business, and the majority of the employers work as cleaners, drivers, gardeners, car-washers and service station attendants. The security department of Escokin remains rather small. The private security industry is thus dominated by internationals.

A number of the smaller or invisible companies are owned, or partly owned, by government officials. For example, Likonzi Security, a small PSC opened recently in Kinshasa, is owned by the ex-governor of Kinshasa and a former admiral of the Congolese Navy, Baudouin Liwanga. Neither the Ministry of the Interior nor the Committee of PSCs at the Federation of Congolese Employers seem perturbed by a potential conflict of interests. They argue that government officials have the right to conduct private business. The reasoning is that if a government official has commercial interests in a PSC, this does not harm the interests of the client. They do not consider whether commercial interests in the security sector might influence the independence and functioning of public governance.[10]

Only a few companies operate nationwide and have field offices: G4S, DSA, Magenya Protection, Delta Protection, and Mamba Security. Outside Kinshasa their main hubs of activity are the mining regions – the main centres of commercial activity. Some contracts demand national coverage of security provision (eg Vodacom, Celtel), but such contracts are scarce, and most companies lack the capacity to deliver. Other clients (eg Monuc) arrange local contracts and work with different PSCs in different regions.

Services provided by the PSCs are general and basic: guarding, access control, alarm and response, cash-in-transit, general packet radio service (GPRS) tracking, VIP escort and transport of mining assets. Responding to the gap left by the weak operational capacity of state services, PSCs provide their clients with a number of secondary services such as assistance after traffic accidents and car breakdown. In the mining industry a number of international companies provide risk analysis and security consultancy, such as Erinys and Armor Group.

The majority of clients are residents with alarm and panic button systems and companies and embassies with security guards. Clients come from a small economic elite of Congolese and expatriates. The majority of the

population cannot afford their services. One of the biggest clients is Monuc, which employs PSCs in Kinshasa and the rest of the country for gatekeeping and access control of its offices. The government and government officials also contract PSCs for gatekeeping and access control of residences and ministerial offices. Occasionally the Ministry of the Interior asks for the assistance of PSCs in crowd control and the provision of security for public ceremonies. Being unarmed and with a better reputation than the public security forces, PSCs are considered more effective for dealing for example with street children and the homeless and handicapped.[11] Some PSCs declared, however, that they were cancelling contracts with the government because the government often does not fulfil its financial obligations.

Private security guards and response units are unarmed, equipped only with a club and often (not always) with a radio. Response units use radios and cellphones for communication with the control room. DSA is the only PSC that uses trained dogs on request. The main task of security guards is access control and gatekeeping and clients generally feel that in an emergency (eg armed robbery, armed pillage and plunder) the security guard is unable to do anything. However, all PSCs have a number of rapid response vehicles that permanently patrol the city. These response units have one or more police officers in their team, who provide armed response when needed.

Recruitment, training and professionalism

The private security industry in the Congo is mainly a man's business. The small number of women employed by PSCs work in the administrative departments and generally not as guards or in response units. Children are not employed. Although the management of most companies is in the hands of expatriates – except for the few companies that have Congolese ownership – the staff (guards, response units, etc) are all Congolese. National employees are recruited locally within the cities of employment. Trade unions are weak in the Congo, and there is no special union for the private security industry. DSA is the only private security company that has an active workers' association, which functions as a channel of communication between management and personnel, and advocates on issues such as labour law, working conditions and salaries.[12]

The regulation for PSCs demands that their personnel should be of good character and have no criminal record.[13] But because of the lack of administrative effectiveness and the dearth of data, it is impossible for PSCs to obtain conclusive information and complete files on their recruitees. In some companies, state intelligence officers are part of the recruitment team who

vet and screen potential new employees. The National Intelligence Agency (ANR) has planted antennas at every PSC, often with the consent of the PSC management. The Ministry of the Interior also stipulates that employees must report on activities and developments that might pose a threat to national security. The ministry is concerned that PSCs might be potential threats to the regime and public security, and sees them as potential coup instigators, mercenaries and recruitment agencies for rebel movements.[14] Within the private security sector itself, these accusations are considered paranoiac. Having nothing to hide, they are not concerned about the intelligence antennas in their premises.

Fear of PSCs as a potential threat to national security is one of the reasons that the law does not allow active or former public security employees to be recruited by a PSC.[15] The argument is that people with a military or police background are trained for combat and in the use of weapons, and in the current post-conflict environment these skills are not wanted in the unarmed private security sector. Another, and probably more realistic, reason is that without this restriction public security employees could massively seek employment in the private sector where salaries are four to seven times higher ($20–$40 compared with $90–$150). Preventing the recruitment of former or active public security employees is the most important issue in the vetting and screening process. According to PSCs spokespersons, this is one of the few issues on which the ministry is very strict.

However, there is little clarity about what defines an ex-public security employee and the law is not conclusive. Does it concern ex-military people that chose to leave the armed forces many years ago? Or does it merely refer to deserters and those unofficially demobilised? Some PSCs understand the law to mean that they cannot recruit current public security employees or people that had been in the army or police. In many post-conflict countries the demobilisation of former combatants provides a pool for recruitment for PSCs. This is clearly not the case in the Congo. The commission (Commission Nationale de Désarmement, Démobilisation et Réinsertion (Conader)) that conducted the demobilisation and reintegration programmes during the transition period has no statistics of ex-combatants entering the private industry, and evidently there were no programmes to insert ex-combatants into the private security sector either.[16] However, one PSC declared that it had employed a small number of ex-combatants who had been through the DDR programme, based on a special arrangement with the Ministry of Interior and Conader.

Most PSCs do not demand a school diploma for recruitment. When one considers the low level of educational standards, a school diploma says

little about the education level or capacities of the individual. Therefore, all PSCs have tests for the recruitment process. These are generally IQ, literacy and health tests. Knowledge of the French language is also a requirement. G4S is the only PSC that demands a working knowledge of English from its entire staff, including the administration, as well as the guards and response units. There are many highly educated security guards (tertiary education), although evidently the work does not demand academic qualifications. Job availability is very low in the Congo. The private security sector is currently one of the few growing industries, and can select highly educated personnel from a large pool of unemployed. A significant number of medical doctors, engineers, lawyers, etc, work as security guards for a PSC.

After being recruited, new employees undergo a training programme of one to three weeks. It focuses on the basics of guarding and security; the role and function of a private security guard, first aid (although they seldom carry kits), unarmed (self-) defence and unarmed combat. Most companies provide basic training or awareness-raising on human rights. In some cases the training programme includes the Voluntary Principles on Human Rights,[17] the UN code of conduct for law enforcement officials (1979) and the UN basic principles on the use of force and firearms by law enforcement officials. However, in practice, the knowledge of private security guards on these issues is very basic and generally not an issue of concern for PSCs. The law does not require any training at all for private security guards, and training is given on the PSC's own initiative. The level of training therefore varies widely.

The level of professionalism of PSCs is much higher than that of the public security forces. There is also a clear distinction between the level of professionalism of the international companies and the locally based. Companies such as G4S, DSA, and OSS (Overseas Security Services) meet their own international standards. These include the skills and training of the guards, the availability and quality of vehicles and equipment, tidiness of uniforms. The salaries of the international PSCs are also higher than those of Congolese companies.

As for the guards, no skills are required. But after five to fifteen days of training they can hardly be called professional security guards. OSS wants to be known for more professional services and therefore sends its employees abroad for training. It offers specialised security services for the mining industry, and provides training for its employees on technical aspects of the mining process and transport, so that they can understand their working environment, analyse security needs and develop tailor-made services. For example, security guards who are to be deployed in the Miba diamond industry receive instruction at

a diamond training school in South Africa in order to understand the specific technical aspects of the process. The provision of a more professional service by OSS includes high-tech equipment, such as body scanners.[18] No other PSC currently offers similar professional and specialised security services.

Public and private security

The police force in the DRC does not provide even the minimum of public security. The Mixed Reflection Group on Reform and Reorganisation (GMRRR) states that the police cannot claim to be a pillar of the constitutional state as it is under-qualified and non-professional (GMRRR 2005:8). Under Mobutu and both Kabilas the police were marginalised in every aspect. For decades they were deprived of their tasks, which were taken over by special forces, presidential guards or the army in general (ICG 2006:5). They were also paid irregularly, underpaid and ill equipped, resulting in low morale, lack of capacity and low effectiveness. In search of survival, the police (and the army) prey on the population. Although it is recognised at the top political level that inadequate payment turns the police into predators rather than protectors, this is not a recent problem and there has not been sufficient political will to increase salaries and improve general conditions.

In a failed state, where the division of the public and private is blurred and the public sphere is often privatised, the police as an institution experience similar confusion as to their role. The police have become predatory, but their role as providers of public security has also been redefined. Instead of carrying out drastic reform to enhance capacity and effectiveness, the police have sought to enter the commercial security market through cooperation with private industry and the development of a commercial branch of the national police.

Integrated security provision of police and private security companies

The first activity of the national police in the field of commercial security has been cooperation with the private sector as subcontractors to the PSCs. This cooperation was formally arranged in 2003 in an agreement between the PNC (National Congolese Police) and PSCs.[19] The official aim of the agreement was to join hands in the fight against crime to increase effectiveness, but the cooperation between police and PSCs has meant that armed assistance is incorporated into PSC operations. This means posting

policemen at PSCs for hybrid patrols, joint guarding and joint response to alarms. Public security measures are thus extracted from the public domain and deployed in the private one.

According to the authorities (the Ministry of Interior and the PNC), the police provide the necessary armed response that by law PSCs are unable to deliver. They therefore assist PSCs in being more effective and delivering the security they are selling. At the same time they are increasing the effectiveness of crime fighting and prevention.[20]

However, the private sector interprets this current cooperation as enabling the police to do their job. It is true that the ill-equipped and incapable police are very much assisted by the logistics (vehicles, petrol, radio) of the private companies. In simple terms, without the PSCs, in most cases the police would not be able to respond and intervene.

That does not imply that PSCs regard their role in assisting the police as a burden. It has a number of advantages for them. Before they had policemen in their response units, private companies that called for police (armed) assistance in emergencies often found that the police arrived very late or not at all. Since the integration of police into their response system, PSCs are no longer dependent on an ineffective police service and have increased their efficacy in providing security for their clients. Second, in the event of casualties or injuries because of armed intervention, the PSC is not liable because the policeman uses the weapon, not the PSC guards. Although cooperation with a corrupt organisation such as the Congolese police remains an exhausting and frustrating affair, most private companies appreciate the advantages and do not wish to acquire the right to use arms themselves and subsequently end current modalities with the police.

Although it may be to the advantage of them, the formalisation of police back-up support to PSCs should primarily be understood as a response to police incapacity. If the PNC had rapid response capability, creative measures such as the current cooperation would not be necessary. Other sub-Saharan countries have similar experiences of cooperation between the private and public security services to increase effectiveness, for example Kenya. Being deprived of the use of firearms themselves, PSCs in Kenya rely on the police for emergency response. In an emergency, the private security company needs to pick up policemen who often lack transport and communications. This delays the response and reduces the effectiveness of the private company. In a pilot project, two police officers were assigned to the private companies. This increased general security in the residential

areas where these teams were operating. However, the pilot project was terminated, and cooperation between public and private security in Kenya is currently on an ad hoc and informal basis (Abrahamsen & Williams 2005:14–15).

In the Congo, all the parties are pleased with the current formal arrangement: the PSCs have armed back-up without legal responsibility; the police gain extra income; and the client is assured of rapid armed response. It therefore seems to be unlikely, at least in the short term, that this formal arrangement will be terminated.

The policemen positioned with the PSCs come from various police departments: the IPr KIN (Kinshasa Provincial Inspection), PIR (Rapid Intervention Police) and the *Brigade de Garde* (Guarding Brigade). There are no statistics on the number of police involved in the private security sector, but in Kinshasa in particular they form a substantial part of the total police force. While the director of the responsible department at the Ministry of Interior and the commander of the *Brigade de Garde* assure the public that the police are merely doing their job, and therefore police assistance to PSCs is a 'free police service', they are aware that private companies pay a little bonus to 'their' policemen to enhance morale and motivation.[21]

The PSCs, however, state that the payment of police positioned with their companies is much more formalised. A contract is drawn up between the private security company and the police department it works with. This contract is renewed or extended every month after a request is made by the PSC. A payment is generally involved, which may be as much as $70 per policeman per month. It is unlikely that these informal incomes contribute to the general police budget. Rather the money is most likely to disappear into the private pockets of the commanders of the police departments with whom the contracts are signed.

Often the monthly payment of 'bonuses' to the policemen is more like a monthly salary which is administered similarly. This payment is normally somewhere between $25 and $50 per month: considerable extra income for a policeman with a monthly salary of $20–$40. Some companies even pay 'their' policemen a similar salary to their own employees, which ranges from $100 to $150. The private companies subsequently regard – and treat – these policemen as their employees, rather than state elements on loan. They are selected by the PSC and can be fired and replaced at the company's request. Some companies even train their policemen similarly to their own new recruits.

The Brigade de Garde *as a commercial security company*

The Congolese police have also entered the domain of PSCs through the *Brigade de Garde,* founded in 2001. Although originally designed for special situations, VIPs and government officials, the services of the *Brigade de Garde* are available to everybody who is willing to pay. Its size in Kinshasa is about 6 000, and in other provincial capitals there is a *Bataillon de Garde* of about 1 000.

Part of the *Brigade de Garde* is deployed at the PSCs, while the remainder is available directly for private property protection. This department is 'self-financing'. Whereas the deployment of police at PSCs is officially free of charge, their deployment as security guards has an official tariff of $75–$150 per month.[22] Like the renting out of policemen to the PSCs, clients probably make additional unofficial payments to the policemen and their commander.

To have a security guard from the Congolese police, a request needs to be made to the minister of interior and the inspector-general of police. The request is generally granted, without assessing the need to spend national resources on the protection of individuals. The *Brigade de Garde* is therefore effectively a totally commercial branch of the PNC, although the policemen are on the police payroll and paid for from national resources like other public security servants.

For clients, the difference between a policeman as security guard and a guard from a private company is first that the policeman is much cheaper ($75–$150 for a policeman compared with $900–$1 100 for a private security guard). However, the difference in price is reflected in the disparity in quality and professionalism. Unlike the private companies, guarding policemen do not have communication systems that can be used to call for support. The most significant difference is that private companies are not allowed to be armed, and guarding policemen are always armed.

Although not all PSCs feel their commercial interests are threatened by the presence of the police in their domain, the Committee of Security Companies[23] believes that the activities of the *Brigade de Garde* are wrong in principle because the state should not provide private security. Therefore the committee advocates with the Ministry of Interior for the disbandment of the *Brigade de Garde*.[24]

The need for reform

The intermixing of and cooperation between public and private security actors reflects the fading division between these domains. The consequences are

significant. The use of public security forces in the marketplace, whether through PSCs or direct deployment by paying clients, is a form of commercialisation of security that devalues public security. The population in Kinshasa can be ensured of police response when required by contracting a PSC that works with hybrid patrol and response. In other cases, the police generally do not respond. In the Congo therefore, private security has become a commodity, and public security as well. While the affluent have access not only to private security, but also public security, the poor have access to none.

The GMRRR, in which members of the PNC, donors and experts participate, stated that there is 'employment of police officers, sometimes astonishing, at non-official missions', such as paid guarding. It mentions only briefly as a recommendation that certain structures of a private nature need to be reformed (GMRRR 2005:10, 29). Colonel Monga Sata, president of the GMRRR and commander of the *Brigade de Garde,* and Minister of Interior Kalume stated that the formalised cooperation between the private security sector and the police, as well as the operations of the *Brigade de Garde,* are considered temporary solutions to immediate needs. The separation of public and private security is a priority within the plans for the reform of the police.[25] According to members of the GMRRR from the international community, however, the high-ranking officers lack the political will to end these profitable activities. A more professional division between public and private security therefore seems unlikely in the short to mid term.

The commercialisation of the PNC is a very profitable business for a few in the higher police ranks, and provides the badly needed extra income for the fortunate police officers that work with the *Brigade de Garde* or are deployed at a private security company. However, it harms the police and state legitimacy. It creates wide income diversities within police departments, generating an internal dynamic in which people seek more profitable jobs at departments that work with the private sector. It depreciates the functioning of the police as public protector, which damages the already weak legitimacy of the state. The focus of the police seems to be completely diffused from providing public security to activities on the private sphere.

Through the hybrid patrol and response teams, the police are virtually dependent on the private sector, being unable to provide the logistics for such teams. The private sector responds to emergencies and alarms and helps clients in need with traffic accidents and first aid.

First, the commercial use of public security obviously must end. Through defining the roles and spheres of public and private security, the PNC should

end its commercial activities and refocus on providing public security. The private industry is there to provide additional services to clients. This does not mean that cooperation between public and private security providers should end. What is important is that the roles and responsibilities should be well defined, and cooperation with the private sector does not weaken or debilitate the public sector. Any transformation of the cooperation between the PSCs and the police is dependent on a considerable capacity enhancement of the police. The key needs for reforming the current role of public security in the private industry are therefore strategic reform and capacity building of the national police. The police must redefine their role as a public security force – which includes a paradigm shift – and increase their operational capacity.

The second key issue concerns finance and corruption. Public security forces operating on the private market constitute a business fraught with corruption and bribes. Unofficial monthly payments are made to the high-ranking officers involved and the deployed policemen. Although it will not be the conclusive answer to this system of 'back-handers', an increase in salaries for policemen is an important first step. It will make them employees of the state again, rather than of the private sector, and thereby public rather than private.

Also, the police need to be granted a budget they can work with and become part of a democratic system of public oversight, transparency and accountability. At present, there is no transparency or public oversight of expenditure (and additional income), and the management of the police forces is left to the individual commanders.[26] A number of these individuals profit immensely from the private business of the police. Because of these financial interests, any attempts to reform, to put an end to the commercialism, and to increase public oversight and transparency are likely to be seriously constrained from within the system itself.

Legislation and regulation: arbitrary implementation and informal oversight

Minimal legislation and regulation

PSCs fall under the responsibility of the Department for Civil Protection of the Ministry of Interior. Illustrative of the effectiveness and capability of the Ministry of Interior, the office of this department has the appearance of a squat, with piles of garbage in the garden. Inside there is no electricity, many windows are broken, and the building is almost empty. The director of the department has an office with piles of papers on his desk, while his deputy has no more than a

desk and a chair: not a single piece of paper can be found in his office. This is not an uncommon situation for ministries in the Congo.

The private security sector overall is ill regulated and poorly legislated. Much depends on personal relations and one-on-one arrangements. There is no legislation on the private security sector; only a minimal regulation against the exploitation of guarding companies.[27] All guarding companies need to register at the Ministry of Interior under this regulation. In essence PSCs are not allowed to be armed or use arms (article 6), and are not allowed to recruit active or former elements of the armed forces or police (article 3 and 7). Other issues concern the right to open and operate a guarding company, for which a permit from the Minister of Interior is needed (article 3). According to the tariff list of the Ministry, to open a guarding company costs US$10 000 and the annual extension of the permit costs US$5 000.[28]

The Ministry of Interior does not prescribe the form of the governing structure of PSCs or annual reporting. There is no regulation or legislation on important issues such as Congolese PSCs operating abroad, or the export of security and military assistance. There are no requirements for minimum skills, professionalism, use of equipment and basic dos and don'ts. Obviously, such minimal legislation is not sufficient to effectively regulate the guarding companies, let alone the rest of the private security industry.

Occasionally other rules are made, but in an informal and arbitrary way. For example, the current regulatory framework does not refer to uniforms: companies are not obliged to use them (although every company does). The Congolese Police, however, reminded the SCG in Kinshasa that guarding companies are prohibited from wearing uniforms that are similar to those of the police or army. Special reference is made to black uniforms, 'which are exclusively reserved for the Republican Guard'.[29] This reminder is not based on formal legislation or regulation, and naturally the police should not be in a position to regulate PSCs. The application, however, is very arbitrary. While some companies say that they were told by the police or the ministry to change their uniforms, DSA, one of the largest companies, still uses a dark blue uniform that is very similar to the uniforms of the PNC. According to a police statement, Likonzi Security uses the prohibited black uniforms.

Oversight through an ad-hoc commission and one-on-one meetings

Control and oversight of the private security sector is done through an ad hoc commission and informal one-on-one meetings between directors of

PSCs and the director of the Department for Civil Protection. The ad hoc commission is presided over by the director of the department and consists of representatives from the ANR and the national police. The committee follows the activities of the PSCs and investigates suspected malpractices. ANR antennas positioned at PSCs send reports regularly to this committee in case suspicious events should occur. This committee advises the minister on permits and their yearly extension for guarding companies.[30]

The second tool also consists of informal and irregular one-on-one meetings between the director of the department and the directors of PSCs. Some companies have a monthly meeting, others less often and less regularly. For the PSC, the purpose of these meetings seems to be to maintain a good relationship with the Ministry of Interior. Reputedly, at these meetings directions may cover any topic. This practice explains why the PSCs that were interviewed all mentioned rules and regulations with which they must comply. Some said they were given instructions on types of shoes and uniforms; others that they were not allowed to recruit female guards, or have female guards on night shifts. Cross-checking with other companies showed that they were not aware of these regulations.

Arbitrary implementation and informal governance

Regulation and control that are based on such meetings and ad hoc committees are obviously arbitrary. State bureaucracy is not independent or properly institutionalised (Chabal & Daloz 1999:3–16). In such a state, the legal framework and regulation are weak and minimally developed. Governance and state bureaucracy depend on personal relations and informal arrangements that are arbitrary and sensitive to corruption. For example, the annual extension of a PSC permit is dependent on positive advice from the ad hoc committee, which is not overseen and lacks transparency and accountability.

The implementation of the little formal regulation that exists is likely to through personal agreements between the committee and/or the director of the ministerial department and PSC in question. For example, expatriate employees of PSCs must be resident in the DRC for at least five years.[31] The management of most companies is not Congolese, and some company managers have not lived in the Congo for five years. Another example is the PSC that, through a special arrangement with the Ministry of Interior and Conader, has employed a number of ex-combatants.

These issues reveal that the little regulation that exists is flexibly adhered to, in a country that is known to be deeply corrupt.

Private security and the Lubumbashi mining industry

The main commercial business in the Congo is mining: the country is extremely rich in natural resources. The province of Katanga is one of the areas that is richest in minerals: mainly cobalt and copper, but tin, zinc and gold are also exploited. Because of this wealth of minerals, Lubumbashi is the commercial heart not only of Katanga, but of the whole country. After the opening of the mining industry to private investment in the late 1990s, numerous international mining and trading companies began to operate in Katanga. Now that the end of the transition and the successful elections have provided a sense of stability, more and more companies are coming to Lubumbashi. The mining industry is dominated by international companies, mainly Chinese, South African, Indian, European and Lebanese.

Security threats

The Lubumbashi area was not a region of fierce combat during the war. Although armed groups and foreign armies were active in the north-eastern part of Katanga province, the south and west remained under the control of government forces. The mining industry in the area therefore was never subject to ongoing attacks and take-overs by rebel movements or foreign armies, unlike the eastern part of the province, North and South Kivu, Equateur and Maniema.

The security concerns of the mining industry in the region are generally twofold. First, petty theft of materials, mining assets, fuel, etc, is common. For most mining companies this is their prime security problem and the main reason that PSCs are contracted. Petty theft is committed by employees and non-employees. In the process of transporting mining assets from the Congo to Zambia, and the main ports of Dar es Salaam and Durban, theft is more organised, although only a minor percentage of the total minerals transported are stolen.[32]

Second, conflict with artisanal miners occasionally escalates locally. Artisanal mining is done manually by local people who are not employed by a mining company. They sell their assets directly to the mining companies, middlemen or the factories for further processing. In the late Mobutu days and during the war, artisanal mining was actively encouraged by the government. Currently 100 000 artisanal miners are operative in Katanga province.

According to the 2002 mining code, in theory artisanal mining is allowed in specially designated concessions,[33] but so far no such concession has been designated. In addition, since the end of the war the government has

Table 2 Security actors in the mining industry

Security provider	Client	Service and activities
In-house security	Internal department of company, no PSC registration	In-house guarding, gatekeeping, access control, escort vehicles and transport
Private security company	Contracts with mining companies	Guarding residences, mines, factories, machines on site, gatekeeping and access control, theft prevention, escort mining assets transport
National Congolese Police (PNC)	Cooperate with PSC through formal cooperation agreement (contract) or hired directly by the mining company.	Armed back-up for in-house security or PSC
Mining Police (PM)	As per national regulation the PM have access to every mining site in the DRC as sites of national economic and strategic interest. Although the PM are part of public security, they often have a dual role, serving the state and the mining company. In effect the PM are deployed permanently on mining sites	Official role is to oversee mining activities on behalf of state, often included in the security department of the mining company
Judiciary police officers (OPJ)	Deployed directly at mining sites or factories at the request of the mining companies	Can arrest people and transfer them directly to the court of law, thereby bypassing the police
Armed forces (FARDC & GR)	Mining companies have access to national armed forces on requests made to the governor. This is informal and based on good relations between the mining company and those responsible at the state level	Rely on armed forces to protect sites in extreme cases: conflicts with artisanal miners, local population, clearance of mining sites, etc

allocated more and more areas for industrial mining, thereby pushing the artisanal mining further and further away. However, many artisanal miners continue to dig in the private concessions. Although in the strict sense of the law their activities are illegal, the mining companies have little means

of preventing them, and feel that they are not supported by national or provincial government. Occasionally the conflict escalates between the business interests of the mining company and the bread and butter issues of survival and income for the artisanal miners, and results in injuries or casualties. Unless the issue is solved by the government through good definitive regulation and alternatives are provided, the tensions will remain.

Occasionally sabotage occurs, frustrating the mining process and the processing of the mining assets in the factories. Although unconfirmed, the mining companies that are victim of these sabotage activities suspect that the artisanal miners were responsible.

Although these concerns appear to be limited, security is a key issue on the agenda and expenditure of most mining companies. The security industry is therefore extensive and has been booming in conjunction with the mining sector since the end of the transition process. But it is a diverse sector in which many actors operate, public as well as private. Like the general modus operandi of the private security sector, in the mining industry state and commercial actors work in parallel in the same market and cooperate in security provision. The market of security providers in Lubumbashi area is even more diverse than in Kinshasa, because more state actors are involved, and many companies use in-house security departments. Table 2 provides an overview of the actors in the mining industry, their (in-)formal clients and the security services provided.

Mining companies use combinations of these actors, but every company works with private and/or in-house security and the PNC, PM, FARDC and the GR. In some cases a mining company uses only its in-house security department, or only a PSC, together with the unavoidable mining police at the mines. In other cases one may find FARDC, GR, PM, PNC, OPJ, a private security company, and in-house security on the same mining site. Although the PSCs effectively cooperate directly only with the national police, they are part of a multi-actor web. The private security sector cannot be seen separately from the national security services, especially not in a sector that is of national economic and strategic importance such as the mining industry. In other words, private security companies do not operate in a separate sphere, but in constant formal or informal partnership with other security forces.

Private and in-house security

The growth of the private security industry in Lubumbashi area has been a direct consequence of the growth of commercial mining since the late 1990s.

Clients are mostly mining companies, which contract PSCs for guarding at residences, offices, mining sites and factories. The market in Lubumbashi is dominated by the same companies as Kinshasa: G4S, DSA, Mamba Security, Delta Protection. A few Lubumbashi-based companies do not operate in other parts of the Congo. With the explosive growth of companies operating in the mining industry and related sectors, the number of PSCs has also increased explosively since the end of 2006. Within the private security sector and the mining industry itself this development has been observed with suspicion. Because of the lack of regulation there is no control over basic standards, quality and behaviour.[34]

The services provided by the PSCs that operate in the mining industry are the same as those provided in residential areas: basic access control and gatekeeping. Generally, private guards are positioned at the entrance of the mining site or factory compound. Inside, other actors operate where necessary (in-house security, PM, PNC, FARDC). The guards are not involved in internal security and the protection of miners in a potentially dangerous working environment. They are not given special training, but receive the same basic training package as guards for residential areas. OSS is currently the only PSC that attempts to set itself apart through providing specialised services. It wants to provide security services that are tailor-made to the demands in mining and the processing of minerals. Although it currently operates only in Mbuji Maji, where it is contracted by the state diamond company Miba, OSS will expand its operations to other mining areas, including Lubumbashi, in 2007.

The current PSCs cannot meet specific demands. This is one of the main reasons that a number of mining companies have developed their own in-house security teams. In the words of one director: 'Why would I pay a private guard who only keeps an eye on who is walking in and out, opens the gate, helps people park their cars and hopefully prevents some theft, while I can hire my own people to do that job for half the price?'

Most companies that were operative in the country long before the late 1990s boom have their own in-house security, because they settled in the area when there were no PSCs to contract. For other companies, the main reason for in-house security is that it is much cheaper.

However, many companies recognise the advantages of outsourcing security. Most mining companies do so because of the insurance and because PSCs can rotate the guards quickly – probably the best mechanism to prevent the guards from becoming corrupted and part of theft networks. It saves work

in administration, recruitment and organisation, and the company does not have to deal with the PNC directly (done by the PSC). Other companies, including parastatal Gécamines, use a combination of in-house security and outsourced security, with different tasks and responsibilities.

Private and public security

PSCs are able to meet the demands of the mining companies to a very limited extent. The most important role of private guards is theft prevention. Theft is committed not so much by intruders and burglars, but by the companies' own staff, and the public security forces. The state police and mining police have particularly bad reputations. Being ill paid – or not paid at all – they seek survival by various means. Although petty theft by private guards occurs as well, they have a much better reputation than the police. The PSCs do not have the same impunity as public security forces and, since job availability is low, this seems to have a preventive function. A system of rapid rotation also means less opportunity to steal. Private guards are therefore generally regarded as more professional and trustworthy. The security manager of a large mining company commented, 'I can't do without the armed police, but for every policeman, I have a private security guard to supervise him.'

Private guards cannot prevent artisanal miners from digging in concessions. The concessions are sizable and are not enclosed. When the situation with the artisanal miners gets out of hand, intervention is sought from armed public security forces, the police, GR, or FARDC, not the PSC or in-house security. Public and private interests are blurred in the Congo, not in the least in the Katangese mining industry. Good relations with the political and military elite in the province are therefore the basis for support from public security forces for the mining companies.

Clashes with artisanal miners occasionally escalate, resulting in injuries and casualties. Incidents like these, and the simple reality that no support or solutions are provided by government, have motivated some companies to handle the situation as a social problem, rather than a legal and security one. They look for more pragmatic solutions to preventing clashes (for example buying the mining assets from the artisanal miners, employing them as day workers, and developing social projects for local communities such as schools and clinics). Using this preventive strategy rather than a confrontational one, companies rely more on unarmed private security guards and less on army and police.

The role of public security forces is significant in the mining industry where a number of these forces are operative (see table 2). These bodies have functions that cannot be taken over by the private sector. But although they work in separate spheres, their functions sometimes overlap and in other cases they cooperate or are integrated. However, the only formal and direct cooperation between PSCs and public security services is with the PNC. Any other form of cooperation or assistance from the public security services is arranged with the mining company directly.

The PNC cooperates with the PSCs in a similar way to the arrangements in Kinshasa. For companies that rely solely on in-house security, it is therefore much more difficult to arrange police support, because the formal agreement between PSCs and the PNC does not include in-house security departments.

The role of the mining police (PM) is interesting. The PM constitute a department of the PNC that has official access to all mining sites, but no authority outside these sites. In effect, the PM are permanently deployed at the mines, where they engage in all sorts of illicit activities, such as extorting the artisanal miners and theft (Global Witness 2006:15). Their salaries are possibly worse than those of their colleagues at other PNC departments. According to some mining companies, they are not paid at all. Having no means of removing them from their sites, and wishing to maintain good relations with the authorities, mining companies can do little other than accept their presence. Some have chosen to pay them a salary and include them in the security team, rather than let them roam the site and seek an income through theft and embezzlement. In those instances, they cooperate on site with private guards.

Some mining companies have *Officiers de police justicière* (OPJs) deployed on their site. This is a legacy of the era when mining was conducted solely by state mining companies.

They select the OPJs themselves and have them on their payroll. Perpetrators of law infringements can be arrested by the OPJs and sent directly to the office of the public prosecutor and the court of law, completely bypassing the police. In other words, the main role of OPJs is to handle arrests and follow-up procedures.

Although public security provision on mining sites should be carried out by the PM, the FARDC and GR are called upon as a last resort to handle security crises, because the PM are often felt to be inadequate or incapable

of handling the situation effectively. The role of the military in the mining industry is not new in the Congo. Under Mobutu, the control of the mining industry and the country's natural resources became militarised (Global Witness 2004:8). After serious incidents on mining sites in which the FARDC and/or GR was involved, the coordination group of mine security managers and providers worked together on a protocol for the deployment of the military on mining sites. In the absence of governmental control, the sector felt it necessary to design the regulations themselves in order to prevent violent incidents.

There are many reports of human rights abuses on mining sites. They concern primarily the working conditions of the miners and the rights of artisanals. The public security forces in general have a bad human rights record. So far no study has been made of human rights abuses by private security guards. PACT, an American NGO, is running a project on the implementation of the Voluntary Principles on Security and Human Rights (2000), the UN Code of Conduct for Law Enforcement Officials (1979) and the UN Basic Principles on the use of Force and Firearms by Law Enforcement Officials (1990) by mining companies and the PSCs involved.

Conclusions

An analysis of the role, activities and context of the private security sector in the Congo provides interesting insights into the dynamics between the private sector and a state which overall has failed, is informal and ineffective. The context of the Congolese state, in which security is politicised, privatised and commercialised, provides a uniquely enabling environment.

The lack of state performance and effectiveness, particularly in public security, leaves a vacuum which provides ready opportunities for the private sector to step in. Affluent people (mainly wealthy Congolese and internationals) turn to the private sector for services that the public security forces do not provide. Criminality and insecurity in the Congo consist largely of pick-pocketing, incidental pillage, extortion by public security forces, and conflict-related insecurity in some parts of the country. The private security industry is powerless against these forms of crime, and the main victims generally cannot afford assistance from a PSC. Robberies and theft occur, but to a limited extent.

The demand for private security therefore is based more on perceived insecurity than actual insecurity. The general sense of political unrest, instability and a potential relapse into conflict is the main emotion behind this perceived

insecurity. It is not unlikely that when the country gradually stabilises, the explosive growth of the demand for private security will come to an end. Because the private security sector is almost completely focused on urban-based affluent residents and companies, the sector's effect on human security in the country is negligible, as the most vulnerable people are poor and rural based, and have no access to private security. Security is thus a commodity in the Congo, accessible only to those who can afford it.

The private security industry cannot be understood in isolation from the public security forces. Public security forces have intervened in the private domain through cooperation with the private industry and via their own commercial branch, the *Brigade de Garde*. An assessment of security in the mining industry shows that the security providers form a multi-actor web: PSCs, PNC, PM, FARDC, GR, OPJ and in-house security work in parallel or in cooperation in the same industry.

Public security services have entered the private domain (and vice versa). The consequences are grave. Not only does this corrupt public security, it weakens state capacity and makes public security a commodity as well. Because of corruption, commercialisation and privatisation of state assets, there is little public security in the Congo.

The division between public and private security is fading, and both have become commercialised. However, the private sector does depend on the public security forces, primarily because it is unarmed. But certain functions of OPJ and police on the mining sites cannot be taken over by the private industry. Both sectors will always need a form of cooperation and coordination. Roles and responsibilities of the public security forces vis-à-vis the private security sector must be clearly defined. The current trespassing of public security on the private domain and vice versa must come to an end. Not only is it highly corrupt, it debilitates the public security forces. The police must focus again on their role as public security provider and from that perspective consider their cooperation with other actors in the private sphere.

However, such a transformation can be made only when the police are empowered, strategically reformed and capacitated. Redefining the roles and responsibilities of the private security sector vis-à-vis the public security sector should be included in police reform strategies. But the private sector has not been included in the GMRRR as a partner, expert or stakeholder; nor has it been consulted. Herein lies an important weakness in improving the regulation, effectiveness and cooperation of public and private security in the Congo.

Because of the state of the country and its governance and bureaucracy, the regulation and legislation of the private security sector are limited and ill defined. There is minimal regulation and it is arbitrarily implemented and adhered to. Regulation and control are ad hoc, not transparent, informal and based on personal relations.

The government has no effective oversight and control mechanisms for the private security industry. Although in principle this is reason for concern and improved legislation and regulation are essential, these needs must be put into perspective and seen in context. There is a general lack of effective governance and properly functioning institutions. Public security services, armed groups and dissident army units often pose a security threat. Against the background of the process of state reconstruction at every level, the regulation of the private security industry is understandably not of high priority on the government's agenda. Nevertheless, good regulation of the private security industry should be part of the process of state rebuilding and should be taken into account in security sector reform strategies.

Notes

1 It consists of 2 345 000 km^2.

2 Estimated by the IMF in 2005 at 57.55 million.

3 Available at www.undp.org.

4 In the period 1971–1997 the country was called Zaire.

5 United Nations Security Council Resolution 1493, 28 July 2003.

6 Chapter 3, article 52 states that all Congolese have the right to peace and security. Furthermore, article 2 of the foreword of the constitution confirms the human rights and fundamental liberties in the international juridical instruments to which the DRC is a member. The DRC has signed and ratified the following conventions:
   - UN Convention on the Elimination of All Forms of Discrimination against Women
   - UN Convention on the Rights of the Child and the Optional Protocol on the Rights of the Child on the Involvement in Armed Conflict.

   Furthermore, the DRC is party to
   - UN Convention on the Political Rights of Women
   - UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
   - UN Covenant on Economic, Social and Cultural Rights
   - UN Covenant on Civil and Political Rights.

The DRC has also signed and ratified the African Charter on Human and People's Rights, although it did not sign the African Charter on the Rights and Welfare of the Child.

7 Interview with M Kitambala, director of the Civil Protection Department, Ministry of Interior, Kinshasa 31 January 2007.

8 Interview with the spokesperson of a Congolese PSC, Lubumbashi, February 2007.

9 Interview with Xavier Baudoux, managing director of Overseas Security Services Congo. Kinshasa, 16 March 2007.

10 Interview with M Kitambala, 31 January 2007, and with J Kaseya Kazadi, Fédération des Employeurs du Congo et Secrétaire de la Comité des Sociétés de Gardiennage, Kinshasa, 1 February 2007.

11 Interview with M Kitambala, 31 January 2007.

12 Interview with Bart Bianzeube, deputy director of operations, Defence Systems Africa. Kinshasa 22 January 2007.

13 Arrêté Ministeriel no 98/008, 1998, article 4.

14 Interview with M Kitambala, 31 January 2007.

15 Arrêté Ministeriel No 98/008, 1998, article 4.

16 Interview with Dieudonné Faka, Conader, Kinshasa, 8 February 2007.

17 The Voluntary Principles are the result of a dialogue between the governments of the US, the UK, the Netherlands and Norway, companies in the extractive and energy sectors, and NGOs. They have developed a set of voluntary principles to guide companies in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms. Available at www.voluntaryprinciples.org.

18 Interview with Xavier Baudoux, 16 March 2007.

19 Ordre Ops no 1560, 2003 and Directive no 1538, 2003.

20 Interviews with representatives of Ministry of Interior and Congolese National Police.

21 Interview with M Kitambala, 31 January 2007; interview with Col Monga Sata, president of GMRRR and commander of the Brigade de Garde, Kinshasa, 6 February 2007.

22 Arrêté Interministériel no 061, 2006, /CAB/MININTERDESEC/2006 et No 097/CAB/MIN/FINANCES/2006 du 13 Juin 2006 portant fixation des taux des droits et taxes à percevoir a l'initiative de la police nationale congolaise.

23 *Committee des Sociétés de Gardiennage (CSG)* of the Congolese Federation of Employers (FEC)

24 Interview with Makwa Gambunji, director of Escokin (PSC) and president of the Committee of Security Companies at the Federation of Congolese Employers. Kinshasa, 7 February 2007.

25 Interview with General D Kalume, Minister of Interior, Kinshasa, 5 February 2007; interview with Col Monga Sata, 6 February 2007.

26 Interview with A R Custodio, Eupol Head of Mission, Kinshasa, 14 February 2007.

27 Arrêté Ministeriel 98/008, 1998.

28 Arrêté Interministeriel, no 70, 2004, article 9.

29 Comité Professionnel des Sociétés de Gardiennage, 15 November 2005.

30 Interview with M Kitambala, 31 January 2007.

31 Arrêté Ministeriel 98/008 1998, article 5.

32 Interview with K Delepierre, Directeur Afrique, Polytra Transport, Engineering and Consulting, Lubumbashi, 27 February 2007.

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