

CONFERENCE REPORT ON **THE REGULATION OF THE PRIVATE SECURITY SECTOR IN AFRICA**



Compiled by the Defence Sector Programme,
Institute for Security Studies

19–20 April 2007, ISS Boardroom, Pretoria



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Overview

On 19 and 20 April 2007 the Institute for Security Studies (ISS) organised a conference on the *Regulation of the Private Security Sector in Africa* under the auspices of the ISS project of the same name, which is co-funded by the International Development Research Council (IDRC) and the United Nations University (UNU). The conference took place at the ISS in Pretoria, South Africa, with academics, researchers, practitioners, members of the International Committee of the Red Cross (ICRC), government officials and representatives of foreign missions interrogating the phenomenon of the private security industry in Africa.

The conference was one of the scheduled activities that took place during the first year of the ISS project. The project's objective is to support the effective regulation of the growing private security sector in Africa and to work towards the establishment of a consistent and logical regulatory framework for national, subregional and regional legislation and protocols. The conference was aimed at examining the manifestation and extent of the private security sector in Africa, the underlying reasons for the sector's unprecedented growth in Africa, the impact of the industry on various issues such as human security, human rights and development, and the need for its effective regulation in Africa at both national and international levels.

The response to the call for abstracts for the conference was overwhelming, with more than 20 abstracts on various topics relating to the subject being received. Of these abstracts, ten were accepted. The papers were grouped for presentation at the conference into the following sub-topical sessions:

- Setting the scene of the private security sector in Africa
- The need for reform of the private security sector in Africa
- International humanitarian law and the private security sector
- Regulation and oversight of the private security sector
- The way forward

In addition to these papers, three country case studies were presented, on the Democratic Republic of Congo, South Africa and Uganda. During the conference there was also a presentation on the Swiss Initiative on private military and security companies, which entails international measures to ensure that private military and security companies operating in areas of

conflict show greater respect for international law and human rights. The Swiss Initiative was launched by the Swiss Federal Department of Foreign Affairs (FDFA) and the International Committee of the Red Cross (ICRC) in 2006 in order to strengthen the legal obligations of those involved and to draw up a list of good practices.

The 14 presentations are listed below:

- Weak States and the Growth of the Private Security Sector in Africa: Whither the African State?, *Dr Sabelo J Ndlovu-Gatsheni*
- Private Security Activities and the Nexus between Natural Resources and Civil Wars in Africa, *Dr Foaleng H Mpako*
- Ethical Security: The Private Sector in Peace and Stability Operations, *Mr J J Messner*
- The Private Security Sector and the Opportunities for Security Sector Reform in Africa, *Dr Jeffrey Isima*
- The International Regulation of Private Security Companies: Lessons Learnt for Africa, *Mr Andy Bearpark and Dr Sabrina Schulz*
- The Position of PMCs and PSCs in International Humanitarian Law, *Mr Jamie Williamson*
- Regulating Private Security Contractors in Armed Conflict: International Humanitarian Law and the Principle of Distinction, *Ms Katherine Fallah*
- Oversight and Monitoring of Non-State/Private Policing: Dealing with Misconduct, Use of Force and Criminal Activities by Private Security Practitioners in South Africa, *Prof. Anthony Minnaar*
- The Private Security Industry in Kenya, *Lt Col (Rtd) Jan Kamenju*
- The State, Security Dilemma and the Development of the Private Security Sector in Swaziland, *Prof. Hamilton Sipho Simelane*
- The Swiss Initiative on Private Military and Security Companies, *Mr Markus Dutly*
- Case Study: DRC, *Ms Meike de Goede*
- Case Study: South Africa, *Ms Raenette Taljaard*
- Case Study: Uganda, *Mr Solomon Kirunda*

At the end of each day, Ms Amelia du Rand from the Institute for Security Studies presented summaries of the proceedings.

Conference Proceedings

Day One

Opening

Session One: Setting the scene of the Private Security Sector in Africa

Chair: Mr Sabelo Gumedze, Institute for Security Studies

Session Two: The need for reform of the Private Security Sector

OPENING

WELCOME: THE DEFENCE SECTOR PROGRAMME

Maj.-Gen. (Rtd) Len le Roux, Institute for Security Studies

Maj.-Gen. Len le Roux, who heads the Defence Sector Programme (DSP) at the Institute for Security Studies (ISS), welcomed participants to the conference on the *Regulation of the Private Security Sector in Africa*. He then gave a presentation on the ISS, detailing its mission, organisational structure and programmes and projects. The ISS was described as a regional applied policy research institute with offices in Addis Ababa, Cape Town, Pretoria and Nairobi. It conducts independent research and, where possible, works collaboratively with and through national, subregional and regional organisations and engages the international debate from Africa with a regional composition. In his presentation, Maj.-Gen. le Roux emphasised that the mission of the ISS is to conceptualise, inform and enhance the debate on human security in Africa in order to support policy formulation and decision-making at every level.

Maj.-Gen. le Roux went on to present an overview of the DSP, describing its objective of strengthening the democracy and good governance of the defence and security sector in Africa and thereby contributing to human security and development. He reported on the various projects run by the DSP, being African Security Sector Governance, HIV/AIDS in the Military in Africa and the Regulation of the Private Security Sector in Africa, for which Mr Sabelo Gumedze is the project manager. He stated that the privatisation of security in Africa was a matter of concern and needed to be further interrogated.

THE DSP PROJECT: THE REGULATION OF THE PRIVATE SECURITY SECTOR IN AFRICA

Mr Sabelo Gumedze, Institute for Security Studies

Mr Sabelo Gumedze gave an overview of the project for the Regulation of the Private Security Sector in Africa, stating that the project was co-funded by the International Development Research Council (IDRC) and the United Nations University (UNU) for a period of two years. He pointed out that in the first year the project had focused on the private security sector in Africa, i.e. private security companies (PSCs) or private military companies (PMCs), and the second year would focus on mercenarism in Africa, the darker side of these PSCs/PMCs.

In the first year, Mr Gumedze said, a concept paper had been developed and was followed by an ISS Paper, which had already been published (Gumedze, S 2007. *The Private Security Sector in Africa: The 21st Century's Cause for Concern? ISS Paper No. 133*). He further stated that all the papers presented during the conference were to be included in a monograph, this being a deliverable in terms of the project.

Mr Gumedze informed participants that a further paper on mercenarism was being researched and would feed into the forthcoming Conference on the Elimination of Mercenarism in Africa to be held in Addis Ababa, Ethiopia. A call for abstracts was to be posted on the ISS website and accepted papers would also be put together in a monograph, which was yet another deliverable in terms of the project. After the Addis Ababa Conference, a pro forma Regulation of the Private Security Sector in Africa was to be drafted and proposals made for the revision of the 1977 OAU/AU Convention for the Elimination of Mercenarism in Africa.

Mr Gumedze listed the following as objectives of the ISS project:

- To enhance understanding of the role of private security services in South Africa, Uganda and the DRC
- To inform the international debate on the impact of private security and mercenary activities on women and children
- To gain an understanding of the trend on the part of key First World countries and the UN of outsourcing non-core military functions
- To influence positively the policy processes towards the revision of the 1977 OAU Convention for the Elimination of Mercenarism in Africa
- To inform the disarmament, demobilisation and reintegration (DDR) processes in Africa so as to address problems associated with the private security sector and mercenarism in Africa
- To develop pro forma legislation on the regulation of the private security sector in Africa

Mr Gumedze went on to identify the ISS project research questions as follows:

- To what extent is the private security industry involved in the DRC, Uganda and South Africa?
- What are the reasons for the development of the private security industry in these three countries?

- What is the effect of the privatisation of security on human rights, with special reference to vulnerable groups, including women and children?
- What are the advantages and disadvantages of the private security industry in these three African countries?
- What are the existing policy frameworks (if any) of various security establishments regarding outsourcing and public-private partnerships and the implications thereof?
- What is the effect of the privatisation of security on the implementation and execution of the African security policy?
- To what extent do mercenary activities still take place in South Africa, the DRC and Uganda?
- Are there any regulations or legislation prohibiting mercenaries and mercenary activities in these countries? To what extent are these effective?
- What are the gaps, inconsistencies and areas of improvement in relation to the private security sector in Africa?

Concluding his presentation, Mr Gumedze identified the project's long-term goals as helping to shape the private security architecture in Africa, ensuring an effective regulatory mechanism for the private security sector in Africa and contributing towards Africa's security, peace and stability.

DISCUSSION

Questions, Responses and Comments

- **Will the DSP project conduct research on the UN Convention on Mercenaries in addition to its research**

in relation to the updating of the OAU convention on mercenarism?

Future work could possibly include the UN Convention on Mercenaries. However, the DSP project was focused on the revision of the 1977 OAU Convention for the Elimination of Mercenarism in Africa.

- **Why were certain case studies included in the study and not others?**

The choice of case studies for the project was dependent upon the project's focus, which in this case was South Africa, the DRC and Uganda. The study of these countries was also delimited by available time and funds. The study could certainly be expanded if there were increased funding and scope.

- **Who drafts the project proposals?**

The ISS drafts project proposals according to its internal strategic planning processes, and the drafts are then sent to donors for consideration.

- **Why does the Private Security Project fall under the Defence Sector Programme? Are we talking about privatised security personnel or the private security industry as a whole?**

The scope of the Defence Sector Programme has changed over time and now includes an increasing focus on security sector reform. It is also important to note that there is a distinction between private security in the broader sense and private security as 'mercenary' activity.

SESSION ONE

SETTING THE SCENE OF THE PRIVATE SECURITY SECTOR IN AFRICA

Chair: Mr Sabelo Gumedze, Institute for Security Studies

WEAK STATES AND THE GROWTH OF THE PRIVATE SECURITY SECTOR IN AFRICA: WHITHER THE AFRICAN STATE?

Dr Sabelo Ndlovu-Gatsheni, Monash University, South Africa

Dr Ndlovu-Gatsheni revealed that the end of the Cold War had left weak states in Africa, presided over by rulers not only bereft of internal legitimacy but also unable to eliminate or manage military challenges by armed strongmen or a vocal civil society. The phenomenon of the existence of weak states in Africa became the fertile field for the unprecedented growth of the private security sector (PSS) in Africa.

He argued that, in the midst of problematic post-Cold War disarmament, demobilisation and reintegration (DDR) and the end of apartheid in South Africa, many soldiers found themselves unemployed and they logically organised themselves into various syndicates known as private military industries (PMIs), private security companies (PSCs) and private military companies (PMCs) where they could utilise their military skills.

The speaker also felt that Africa had been caught napping by the growth and quick spread of the phenomenon of the PSS at the end of the Cold War, as the continent did not have a ready-made regulatory framework to deal with this phenomenon, which compromised the African states' traditional monopoly of means of violence. His paper had three main focuses:

- It deployed the concepts of 'warlord politics' and 'weak states' as articulated by William Reno to interrogate the reasons for the unprecedented growth of the PSS in Africa
- It assessed the impact of the PSS on security and development in Africa
- It debated how the PSS could be effectively in Africa

The overarching argument of Dr Ndlovu-Gatsheni's paper was that the de-monopolisation of violence by the state contains inherent catastrophic dangers in terms of control, transparency and accountability. If violence and security can be privatised, then the state, peace and security and development in Africa are in peril. He concluded that there is a strong argument for the regulation rather than the abolition of the PSS in Africa.

PRIVATE SECURITY ACTIVITIES AND THE NEXUS BETWEEN NATURAL RESOURCES AND CIVIL WARS IN AFRICA

Dr Foaleng Mpako, Graduate Institute of International Studies, Geneva

In her presentation, the speaker explained that the end of the Cold War and the collapse of the apartheid regime in South Africa led to the downsizing of the military and had regular officers and soldiers seeking employment through military companies in conflict-affected countries. Many of these soldiers found themselves in wars in Angola, Mozambique, Sierra Leone, Sudan, Liberia, Congo (Brazzaville), Congo (Kinshasa) and the Great Lakes region. It has been difficult to clearly establish the role, which these soldiers played in these conflict situations. In most cases these countries' natural resources became a major factor in fuelling the conflict. The speaker also highlighted the ongoing debate about how to categorise and distinguish between old mercenaries and the new ones or to differentiate between mercenary groups, private military companies and private security companies. She felt that it should be considered that the majority of private military and security companies provide military training and security services. In practice, it has not been so easy to differentiate between the types of companies. Such difficulty is more visible in situations of conflict where there is a nexus between the exploitation of natural resources and the war.

Dr Mpako's paper sought to highlight the risks presented by the use of the numerous military companies, such as mercenary companies, in establishing and maintaining the link between natural resources and civil wars, without entering the debate about the role of these companies in stabilising or destabilising national and regional security in Africa. Her presentation contributed to the discussion on how the privatisation of public security constitutes an obstacle to the development of states' capacity to control, regulate and manage their natural resources.

DISCUSSION

Questions, Responses and Comments

- **Has the demand for force in Africa increased? How does this affect supply and demand for private security?**

African states are struggling to gain control over territories and implement nation-building. In the gaps where other actors become involved, governments are prevented from performing their duties.

■ **While most delegates will share scepticism about the use of labels for African states, using the term 'failed state' is perhaps premature. When does a state fail?**

The concept of a failed state is a negative formula. It means that the state has failed to keep the Weberian characteristic, which is that the state holds the monopoly on the use of violence in its territory.

■ **Can decertification of industries (like the Kimberley Process) remove the resource base for paramilitary groups?**

Processes like Kimberley work on two levels, national and international. These processes also remove the economic element from conflict.

■ **A comment was made that the failure of a state is not always related to time. African states may not need as much time as European states needed to develop. The failure of the African state is in delivery and not existence.**

■ **A comment was also made that, in terms of the period over which consolidation occurs, the development of the European state was a long process. Africa has a long way to go with regard to state building. One cannot use a timeline to determine failure. Hence it was not appropriate to refer to some African states as 'failed states' in their current situation.**

ETHICAL SECURITY: THE PRIVATE SECTOR IN PEACE AND STABILITY OPERATIONS

Mr J J Messner, International Peace Operations Association

The speaker began by noting that the private security industry has rapidly become an indispensable component of peace and stability operations worldwide. The expansion of the industry has had significant consequences for Africa, both in terms of its effective use on the continent and its employment of Africans in operations conducted by the UN, NATO and the AU.

He argued that as the use of the private sector in peace and stability operations increases, so does apprehension. Much of this fear and criticism stems from the historical use of mercenaries in various African conflicts. The concept of private sector peace and stability operations and the concept of mercenarism are all too frequently confused and incorrectly bundled together. Africa's image has previously been tarnished by the use of mercenaries by criminal and corrupt elements. However, attempts to counter mercenarism have all too often negatively impacted on the good and important work of the legitimate private sector, a problem reflected in recent legislative developments in South Africa. The private security industry is

itself a leading advocate for greater regulation. However, it is important that a balance be struck between sensible regulation and unreasonable, draconian laws. Although there are already strong legal frameworks in place for much of the industry's operations around the world, gaps remain. Key questions such as to whom companies are accountable and how the rule of law should and can be applied in conflict or post-conflict environments must be answered by sensible regulation. Mr Messner also felt that, beyond government regulation, it is important to understand the steps that have been taken within the industry to self-regulate. Although self-regulation should never take the place of proper national and international legal frameworks, the industry is nevertheless determined to demonstrate its ethical standards and commitment to transparency. To this end, dozens of companies around the world have signed the International Peace Operations Association (IPOA) Code of Conduct, the key ethical standard of the industry. The increased use of private companies in peace and stability operations has become a fact of life, and is unlikely to be reversed. The industry contributes significantly to the success of peace operations worldwide and assists the international community in ending suffering in some of the world's most brutal conflicts. In conclusion, Mr Messner submitted that it is in the best interests of Africa and the international community that the positive contributions of the private sector be supported within a robust, legal and ethical framework.

CASE STUDY ONE: UGANDA

Mr Solomon Kirunda, Parliament of the Republic of Uganda

In his presentation, Mr Kirunda discussed the definition of private security and the role that the private security sector has played in Africa. He argued that the insufficiency of resources to help the various state organs in their principal role of protecting the security of their citizens has been a major driver in the growth of the private security sector in Africa and indeed in Uganda. The increased numbers of members of the propertied class, who need to have a secure environment in order to continue investing, has been another reason behind the growth of the private security sector in Uganda. The privatisation of security has come with its own challenges to states, providers and recipients, all of which were discussed in this paper. Mr Kirunda's presentation examined the private security sector in Uganda. In particular, he analysed the regulation and control of this new security phenomenon by the state through legislation, the prevailing practices and whether the emergence of private security has improved the security of the citizens.

In his conclusion, Mr Kirunda stated that an examination of all the circumstances relating to the growth of the private security sector reveals that private security has only benefited wealthy people and businesses, which can afford to pay the hefty bills of the firms or personnel providing the security. The people in the rural areas have been left exposed to the same security dangers and risks that prevailed prior to the privatisation of security.

DISCUSSION

Questions, Responses and Comments

- **Uganda's regulatory framework is interesting, but does the government have control over the activities of these companies? Examples?**

Regulations have been in place since 1997. A review is currently underway and a committee (involving several general participants) will be set up to regulate and control licensing, etc. However, an enforcing body (law) needs to be created.

- **In the African context, does the industry have criteria in the choice of participants it deals with? What are legitimate participants and what is a legitimate government? How do you see the impact of companies involved in conflicts, as with the US using contractors in Iraq – state/government-controlled vs. the African context where governments do not have control?**

It is up to the individual company to decide with whom to do business – there are, however, extremes that should be minimised. The IPOA Code of Conduct has measures for controlling the way in which clients are identified and chosen. Legitimacy is determined by a 'knows it when he sees it' policy. It is obvious from its activities, links, etc. when a group is illegitimate. The impact of the Iraq conflict has generated a lot of development globally within the private security world.

- **With the Ugandan military being part of the coalition of the willing, what is happening to the normative policy regarding the private security sector?**

There is no flow from the military to the private security sector; there are regulations in place.

- **Does the possibility exist of US domestic regulation of private security, both in terms of importing and exporting private security actors?**

US domestic regulation of private security can only really be explored post-Hurricane Katrina. A more rigid framework may be developed with regard to private security actors. However, there are other measures in place (the federal government has increased its capabilities). This does not preclude a regulatory framework being put into place.

- **The UN system lacks a form of self-criticism – look at MONUC, for example. How can the involvement of the private security sector help the UN examine itself?**

How can UN missions be improved as a whole? We have seen great improvements in logistics on the part of private actors. The UN has a significant problem regarding peacekeeping missions and recruiting forces, etc. The future of UN missions should be to turn to private security companies because of their capacity. There is a stigma attached to the UN at the moment – will this change? Currently, the private sector is self-critical (unlike the UN).

- **Peace support operations (PSOs) are used in urban areas – whose security are we talking about in the case of Uganda (given most communities are in rural areas)? Who is protecting the common people? The police? How will PSOs develop in the future so they can function in rural areas? Are people adhering to the laws and regulations laid out by the constitution?**

There is a situation of supply and demand. Community policing and citizens' watch through their councils are options for those who cannot afford private security.

- **Is the training of the PSOs regulated? And is it aligned to education in Uganda?**

Manuals have been tailored to Ugandan standards but, in the absence of a standardised manual, each PSO uses its own.

SESSION TWO

THE NEED FOR REFORM OF THE PRIVATE SECURITY SECTOR

Chair: Ms Lauren Hutton, Institute for Security Studies

THE PRIVATE SECURITY SECTOR AND THE OPPORTUNITIES FOR SECURITY SECTOR REFORM IN AFRICA

Dr Jeffrey Isima, Cranfield University

Dr Jeffrey Isima began his presentation by highlighting the fact that the privatisation of security in Africa since the turn of the 1990s has generated serious concerns within the academic and policy communities about the impact this trend is having or could have on human security. These concerns have become particularly urgent in a region where violent conflicts and widespread abuses by state security forces have generated some of the worst human rights violations since 1945. It is also a region where physical insecurity has inhibited the potential for economic growth and sustained development. The emergence and proliferation of private military companies and private security companies in recent times reflect a global trend in which non-core security functions of the state are increasingly being outsourced to the private sector. The speaker believes that this is the unravelling of the processes of globalisation and privatisation and that even powerful states have succumbed to the same pressures as developing states. This is highly prevalent in sub-Saharan Africa, where the relative weakness of the state has made it very difficult for governments to bargain with powerful private enterprises, especially those from rich and powerful countries. A major security concern has been that, while powerful states are able to retain core security functions within the public sphere and regulate the private security sector effectively, African countries do not have the same prospects. The fragility of the state makes it possible for the expanding scope of privatisation to encroach upon core security functions.

The speaker believes that attempts to regulate the industry by African states and the international community have been almost non-existent, with a few exceptions, which include leading efforts by South Africa. The primary concern of his presentation was to find the appropriate point where the public and private security sectors in Africa should meet. His presentation sought to show how an unregulated private security sector in Africa would undermine human security and development. He also argued that effective regulation of the industry is integral to and a potential instrument for security sector reform (SSR) in the region and suggested the conditions under which SSR in Africa can be enhanced through the private security sector. These

include banning activities that are deemed illegal, licensing individual firms, sometimes approving particular contracts, and self-regulation by either individual firms or industry associations through self-imposed codes of conduct and industry standards in the implementation of contracts.

CASE STUDY TWO: SOUTH AFRICA

Ms Raenette Taljaard, Helen Suzman Foundation

In her presentation, Ms Taljaard briefly discussed the background to the development of South Africa's draft Bill on mercenarism, currently awaiting the assent of the President. She looked at the various challenges of the Bill's implementation, as well as constitutional flaws in the draft, including the following:

- The restriction of the right to choose a trade, occupation or profession freely enshrined in section 22 of the Bill of Rights
- The creation of a wide-ranging extraterritorial jurisdiction in section 11
- The extensive discretion granted to the executive in designating 'regulated countries' (section 6) and exemptions (section 13)

The speaker also highlighted the main gaps, inconsistencies and areas for improvement with regard to the private security sector. These include:

- Increased screening of security personnel, improvement of training curricula and tighter control over the provision of firearms
- Improving the functioning of the regulatory regime
- Developing a better working definition of the term 'security services'
- Creating regulatory co-ordinating routes
- Establishing public-private partnership paths to strengthen the country's overall crime-fighting efforts and influence policy in a constructive and positive fashion
- Reviewing the regulation of the industry and its regulator, PSIRA
- Increasing institutional resources to PSIRA in order to accommodate the increasing numbers of private security actors

In her conclusion, Ms Taljaard highlighted the challenges that the government and PSIRA face with regard to private security services, including the following:

- The need to increase monitoring capacity to execute the core regulatory mandate
- The need to review the regulatory legislative framework based on the lessons learned from implementation to date
- The need for closer co-operation with other state law enforcement agencies
- The need to engage the industry to encourage 'self-regulation' and research, development and international 'best practices'

DISCUSSION

Questions, Responses and Comments

- **What was the difference between South Africa and Uganda's private security strikes?**

No research has yet been undertaken on this. But private security strikes can be devastating, as has been seen in South Africa in recent times.

- **Is it really a question of control? Employing private security actors does not signify a lack of control. In addition, is South African legislation trying to play 'Big Brother' to the rest of the continent?**

The state is losing control over the monopoly on violence. The state has struggled to control the private security sector. Therefore, PSCs must be accountable and transparent. South Africa cannot regulate the entire continent; it can only influence the development of an international plan to regulate private security actors on the African continent.

- **In Africa, the conceptualisation of the state is a major problem for security. Is this an ideal situation for the private security industry?**

In real terms, the state in Africa has been given control; however, insecurity is also created by the state. This scope of insecurity creates a gap, which is now being filled by private security actors. The goal of the integration of private security is hindered by the question of 'security for whom?'. There is a great problem of exclusion, as not all people can afford private security and the state is not providing adequate security for its citizens.

- **There are many problems with the South African Bill regarding private security actors. There is also a problem relating to information gathering and sharing. There is a tremendous need for regulatory innovation because the industry is growing fast and legislation cannot keep up.**

THE PRIVATE SECURITY INDUSTRY IN KENYA

Lt.-Col. (Rtd) Jan Kamenju, Security Research and Information Centre

Lt.-Col. Kamenju began by explaining his understanding of private security as the security provided by individuals, companies and other organisations to a client for a fee as opposed to public security provided by the state. Private security also fills the gaps that governments may be unable to fill through security agencies such as the police, intelligence and the military. Governments are also clients of private security in areas that they may not be in a position to cover or whenever it may be more convenient to them in terms of time, cost, location and sustainability. The basic features of private security are that its activities, structures and performance are based on free enterprise business principles.

He disclosed that private security is one of the fastest growing service industries in Kenya. It is spread across the country, covering all the urban centres and with a noticeable presence in the rural areas. It provides employment for many people, ranging from uneducated youths and school dropouts to retirees from government security agencies.

Many leading local and international companies depend on private security companies for the security of their investments. The private security industry is therefore well integrated into the business and domestic spheres of Kenyan life. Despite this active role in the Kenyan economy and the monumental growth of the industry, there are no specific government regulations or rules to standardise the industry's operations. The same laws that govern every other enterprise regulate security companies.

Lt. Col. Kamenju revealed some of the research findings of a study on the private security industry in Kenya commissioned by the Security Research and Information Centre (SRIC). He also discussed the magnitude of the industry, the gaps it fills in security provision and the policy vacuum within which it operates.

In his conclusion, he described the possible policy interventions that the Kenyan government should put in place to regulate and enhance the capacity of the industry. These include:

- Setting up a policy framework that will guide the establishments, operations and service standards of the private security industry in Kenya
- Creating and implementing a set of comprehensive and realistic norms and standards to ensure the achievement of the objectives of regulation and eliminate the familiar problems associated with no regulation, under-regulation or deficient regulation
- Creating a credible regulatory body, directed and managed by persons with the necessary knowledge, skill and motivation to vet operators and to regulate and monitor the private security sector
- Ensuring this regulatory body has adequate legal powers to secure an adequate level of compliance with the established norms and standards of the industry

THE STATE, SECURITY DILEMMA AND THE DEVELOPMENT OF THE PRIVATE SECURITY SECTOR IN SWAZILAND

Prof. Hamilton Sipho Simelane, University of Swaziland

In his presentation, Prof. Simelane explained that in the last three decades Swaziland has witnessed the mushrooming of private security companies (PSCs). These PSCs have been established to meet the security needs of the different sectors of Swazi society, yet there is currently no documentation on them, as academics and other researchers have completely neglected them as subjects worthy of scholarly inquiry. This is in spite of the fact that the use of private security companies has become evident and prominent at social, business and political level. Private security companies have addressed the limitations of public security forces in providing security to different levels of Swazi society.

The main aim of Prof. Simelane's research and the paper he presented at the conference was to provide an analysis of the emergence and development of private security companies in Swaziland. This is considered vital, as the private security sector in Swaziland has grown at a very fast rate. His paper addressed the issue of the main factors behind such a high growth rate through the interrogation of Swazi social, economic and political dynamics in the growth of the industry, highlighting the different security needs of people in rural and urban areas and how the private security sector is impacting on national security.

Prof. Simelane's presentation also analysed the general impact of the private security sector in Swaziland. He argued that while PSCs have been an answer to the security needs of the citizens and investors, their growth and development have certain implications for the state. The state has abdicated its responsibility of providing security to its citizens because of the inefficiency of its own institutions entrusted with this task. In so doing it has allowed itself to be undercut and its sovereignty to be limited. Prof. Simelane concluded that, because the failure of state security is a contested issue in Swaziland and the main actors in this contest are the public sector, community security and the private security sector, this contest is bound to create conflicts in the future, thus demonstrating that the Swazi state is on the retreat.

DISCUSSION

Questions, Responses and Comments

■ **Why is there an increase of hire services and security escorts in Kenya?**

Escorts are needed because of the high levels of crime, especially in remote areas. However, these levels are decreasing.

■ **Do any statistics exist gauging whether the use of arms by security forces has an impact on the growth of the security sector?**

Providing Kenyan private security actors with arms at this stage is not considered a feasible option. There must be increased regulation before such a strategy would be put into place.

■ **About 70% of people in Swaziland live in rural areas. Is there a greater level of security in rural areas than in more commercial/urban areas? Private security companies mostly offer services to commercial actors; does this mean that people in rural areas remain unprotected?**

All PSCs work for a profit, so they will be concentrated in places where they can earn more income. This is usually in commercial/urban areas.

■ **Can the Kenyan experience offer policy recommendations for regulation?**

The Kenyan government should remain the primary regulatory body (in addition to providing policies) in order to regulate the sector. However, more actors should be included in the future. There are other questions to consider – is the need for private security really higher in urban areas, are private security companies responsible for this trend, etc.

Conference Proceedings

Day Two

Session Three: International humanitarian law and the Private Security Sector

Chair: Prof. Hamilton Simelane, University of Swaziland

Session Four: Regulation and oversight of the Private Security Sector

Chair: Maj.-Gen. (Rtd) Len le Roux, Institute for Security Studies

Session Five: The way forward

Chair: Mr Chris Maroleng, Institute for Security Studies

Closing remarks

Maj.-Gen. (Rtd) Len le Roux, Institute for Security Studies

SESSION THREE

INTERNATIONAL HUMANITARIAN LAW AND THE PRIVATE SECURITY SECTOR

Chair: Prof. Hamilton Simelane, University of Swaziland

THE POSITION OF PMCS AND PSCS IN INTERNATIONAL HUMANITARIAN LAW

Mr Jamie Williamson, International Committee of the Red Cross

In his presentation, Mr Williamson highlighted the position of private military companies (PMCs) and private security companies (PSCs) in international humanitarian law (IHL). He noted that in today's conflicts the number and nature of actors is constantly changing, with soldiers, peacekeepers, humanitarians and private contractors, to name but a few, present in the field of combat. In particular, the most recent conflicts such as those in Afghanistan and Iraq have seen a greater presence of PSCs and PMCs. Mr Williamson argued that the functions of PSCs and PMCs vary, and seem to include the provision of logistics, the protection of convoys and personnel for companies, the staffing of checkpoints, even the interrogation of prisoners in some situations, the collection of intelligence and direct participation in combat operations. Today, he said, the activities of certain PSCs and PMCs appear to have moved away from the traditionally accepted 'service support functions'. Indeed, on occasion, private contractors risk assuming core military functions. By their very presence in zones of armed conflict, and given the nature of their activities, PSCs and PMCs increasingly come into contact with both civilians and belligerents.

Mr Williamson emphasised the blurring roles of PSCs and PMCs and stated that:

- PSCs and PMCs should be aware of their responsibilities and positions under IHL
- States must meet their obligations under IHL in relation to the actions of PSCs and PMCs
- There is no legal vacuum in armed conflict situations, as IHL is always applicable

After outlining what constitutes international humanitarian law and depicting conflict as a reality, Mr Williamson discussed the various developments related to the Geneva Conventions. He also discussed the possibility of viewing PSCs and PMCs as combatants under IHL, defining combatant status in terms of their behavioural responsibilities. Lastly, he discussed criminal responsibility, focusing specifically on war crimes, individual criminal responsibilities and state regulations. He defined war crimes as:

- Grave breaches as covered by the Geneva Conventions and Additional Protocol I

- Other serious violations, also included in Additional Protocol II, statutes of international tribunals and national legislation

He stressed that war crimes must be punished and that states must enact national legislation prohibiting and punishing grave breaches. In addition, states must either initiate prosecution proceedings or hand suspects over for trial in another state.

In his conclusion, he noted that while PSCs and PMCs are not explicitly mentioned in the Geneva Conventions and their Additional Protocols, they are nonetheless bound to respect the norms of IHL. Their responsibilities, status and protection will depend largely on whether, under IHL, they are deemed to be combatants or civilians. During armed conflicts, a distinction must be made between civilians and civilian objects on the one hand and military targets on the other. Finally, Mr Williamson stated that IHL must be respected at all times of conflict.

REGULATING PRIVATE SECURITY CONTRACTORS IN ARMED CONFLICT: INTERNATIONAL HUMANITARIAN LAW AND THE PRINCIPLE OF DISTINCTION

*Ms Katherine Fallah, University of Sydney Research Associate
to the Judges of the Federal Court of Australia*

In her presentation, Ms Fallah noted that the distinction between civilians and combatants is a fundamental concern of the international law of armed conflict. It provides an essential framework for the regulation of actors in armed conflict. At present, there is a great deal of confusion as to the position of private security contractors under international humanitarian law. Perhaps most importantly, many actors in armed conflict, including security operators themselves, do not know whether private security contractors are civilians or combatants for the purposes of international humanitarian law. The consequences of this uncertainty are critically significant. She proposed to provide an overview of the law of distinction with specific reference to private security contractors in armed conflict situations.

One key consideration in determining the rights and responsibilities of private security contractors in armed conflict is the question of whether the contractors take direct part in hostilities. Indeed, if private security contractors are civilians under IHL, their direct participation in hostilities deprives them

of many protections and exposes them to criminal liability. The focus of the paper was to examine the significance of the definition of 'direct participation in hostilities' under IHL. She provided an overview of the legal definition of direct participation in hostilities and outlined the conditions under which a private security contractor can be said to be participating in hostilities. In addition, she explained the consequences for security contractors in the event that they do take direct part in hostilities.

Ms Fallah argued that a full inquiry into these legal questions is an essential step in the regulation of the private security sector. A proper enunciation of the existing state of international law is necessary to inform new regulatory processes at domestic, regional and international level. In her conclusion, she also stressed that it is critical that security contractors presently operating in theatres of armed conflict are aware of their rights, protections and responsibilities under international law.

DISCUSSION

Questions, Responses and Comments

- **The point has been made that international law is adequate, but is it successful in producing actual convictions of guilty parties?**

No convictions are made by the International Criminal Court (ICC), because it was meant to complement national courts. IHL rests on the reciprocal relationship between parties that have agreed to honour these laws. In the absence of judicial jurisdiction within states, there are international tribunals and the ICC. State terminology should mirror IHL.

- **The involvement of PSCs and PMCs in armed conflict differs from situation to situation. Where then do you draw the line between combatant and non-combatant groups? What is the IHL's standpoint on trying prisoners and suspects when one looks at legal jurisdiction?**

There are ongoing challenges for IHL regarding armed conflicts, especially in drawing the line between combatant and non-combatant groups. Training of private security actors should be done beforehand. States have willingly agreed to the Geneva Convention; every single state globally has ratified this treaty. It is imperative that states respect IHL and the responsibilities attached to this and remain accountable to the treaty.

- **The ICRC makes use of the private security sector; what is the regulatory framework?**

Yes, the ICRC does make use of private guards for its residences and facilities and of course there are rules regarding the use of private security; they are not per-

mitted to participate in hostilities. In addition, the ICRC does not use military escorts (except in Somalia) and the perception of independence from military actors is highly important to the ICRC.

- **Are there clear regulations for contractors working in Iraq? Does the ICRC have the same regulations, for example for covert operations and intelligence sharing?**

International humanitarian law is not the only body of law in this context; there is also the International Court of Justice. State responsibility is always a challenge. IHL looks at individual cases. It is impossible to prosecute the state. What is the state? Who is included/excluded?

- **What is the impact of state capacity, or limits on state capacity, on the enforcement of national and international laws, considering that states are responsible for controlling the actions of PSCs and PMCs? Look at Sierra Leone and Liberia, for example, where combatants were hired to work for neighbouring countries. If international humanitarian law is adequate with regard to PSCs and PMCs, how can it ensure that employers are held accountable for their employees' actions, especially considering that IHL focuses on the individual?**

The Swiss Initiative (which will be discussed later) will answer questions regarding a universal code of conduct for private security actors.

- **What is the difference between the definition of a mercenary used during yesterday's presentations and the one used today?**

The definition of a mercenary in the Convention is outdated and inadequate and must be reformed. There is room for a complementary regime worldwide regarding mercenaries. IHL looks only at armed conflict situations, whereas other UN conventions look at conflict and non-conflict situations.

- **The Defence Sector Programme project is looking at the possible implementation of international and national regulation of the private security sector. Is there a pro forma for implementing IHL in countries? What is the role of regional and subregional conventions – do they advance IHL or do they confuse the situation? Has the South African Bill gone too far?**

The ICRC does work closely with states as far as the implementation of IHL is concerned. The ICRC also made representations before the South African Parliament during the debate on the South African Prohibition of Mercenary Activities and Prohibition and Regulation of Certain Activities in Areas of Armed Conflict Bill. Regional and subregional conventions are meant to complement international instruments.

SESSION FOUR

REGULATION AND OVERSIGHT OF THE PRIVATE SECURITY SECTOR

Chair: Maj.-Gen. (Rtd) Len le Roux, Institute for Security Studies

OVERSIGHT AND MONITORING OF NON-STATE/PRIVATE POLICING: DEALING WITH MISCONDUCT, USE OF FORCE AND CRIMINAL ACTIVITIES BY PRIVATE SECURITY PRACTITIONERS IN SOUTH AFRICA

Prof. A Minnaar, Department of Security Risk Management, Law Department, University of South Africa

Prof Minnaar's presentation dealt broadly with the ongoing discussion in South Africa regarding best practices and regulatory frameworks for the oversight and monitoring of the activities (and possible misconduct) of private security practitioners where they are involved in public policing activities. While the South African private security industry is reasonably well regulated by the Private Security Industry Regulatory Authority Act (the most recent piece of legislation regulating the industry), the Act does not specifically set up an oversight monitoring body – only an inspectorate and a complaints line, which deal more with working conditions and service complaints than actual private policing actions. The South African private security industry does not have a formal body like the Independent Complaints Directorate, which monitors the behaviour and sanctions misconduct by the South African Police Service (including the Metro Police agencies). As a result, this 'non-oversight/unmonitored' situation has consistently raised questions about the control of private/non-state policing with regard to reporting lines – for instance, who has ultimate authority over actions and accountabilities?

Prof. Minnaar noted that a number of questions arise within this context:

- With regard to monitoring, which body – police oversight (complaints) authority or private security authority inspectorate – should be active in monitoring these private policing activities?
- With regard to the question of imposing sanctions, it does not depend so much on who does it but rather the feasibility of implementation and enforcement. The latter is also linked to ensuring that private security providers adhere to a code of conduct/ethics
- With regard to enforcement, which provisions can only be imposed on licensed/registered operatives and companies?
- With regard to fly-by-night companies, who would deal with illegal, unregistered, unlicensed persons and com-

panies in this particular industry? The situation is further complicated by the lack of role clarification

- Which exact policing services (extent) would be provided by the private security industry and would need to be independently monitored?

In addition to the above issues, the fragmentation and differentiation of services provided by the private security industry as a whole is also a challenge as, on a specific level, there is in fact no one 'thing' called 'private policing'.

Finally, the presentation attempted to formulate practical answers to some of these questions as they pertain to the South African situation.

THE INTERNATIONAL REGULATION OF PRIVATE SECURITY COMPANIES: LESSONS LEARNT FOR AFRICA

Dr Sabrina Schultz, British Association of Private Security Companies

Dr Schulz presented on a paper which she co-authored with Mr Andy Bearpark. Dr Schultz's presentation addressed the impact and relevance of current international attempts to regulate the private security industry for African private security companies (PSCs) and security operatives. Western governments and industry associations lead existing regulatory initiatives. They seem to have little bearing on PSCs in Africa. Yet the privatisation of security is a global phenomenon in that both services and personnel transcend national borders with considerable ease. Efforts to regulate the private security industry therefore require an international dimension. She explained that the UK industry is currently introducing self-regulation, codes of conduct are being drafted in Eastern Europe and the Swiss government is championing an approach of best practice to regulate the private security industry internationally. The presentation examined whether, and to what extent, lessons can be drawn from these initiatives for the regulation of PSCs in Africa.

She then described the various Africa-specific initiatives that exist, such as the recently enacted South African legislation and the work being done in pan-African forums like the African Union. Her presentation also revealed links, both positive and negative, between the operations of PSCs in Africa and development in the continent generally. This demonstrated that the

challenges for security governance in Africa are not the same as in other parts of the world. Yet the private security industry can only be meaningfully regulated if it has an international dimension. In her conclusion, Dr Schultz suggested a 'matrix' or 'laminated' approach for the international regulation of the private security industry.

CASE STUDY THREE: THE DEMOCRATIC REPUBLIC OF CONGO

Ms Meike de Goede, Independent Political Analyst/Consultant, DRC

In her presentation, Ms de Goede discussed her study of the Democratic Republic of Congo's challenges in relation to the private security sector. Her study focuses on the part of the private security industry that is operating legally, which means that the arms trade, armed PMCs and PSCs, training and military support to non-state actors and mercenarism have not been included in the study. This is not to say that companies involved in combat and operational support, training and advice, or even mercenaries are currently active in the DRC. However, the study focused 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, are intermixed and have ill-defined roles, the private sector is analysed in the context of the functioning of the state security forces. Ms de Goede also makes special reference to private security in the mining industry, as the most important industrial sector in the country.

The analysis of the role, activities and context of the private security sector in the Congo provides interesting insight into the dynamics between the private sector and a state that has failed, either completely or at an informal level, or is simply ineffective. The context of the Congolese state, in which security is politicised, privatised and commercialised, provides an enabling environment that is unique. Ms de Goede believes that the demand for private security, therefore, is based more on a perceived insecurity than on an actual insecurity. The general sense of political unrest, instability and a potential relapse into conflict are the main emotions behind this perceived insecurity. It is therefore not unlikely that when the country gradually stabilises, the explosive growth of the demand for private security will end. Because the private security sector is almost completely focused on urban-based affluent residents and companies, the sector's effects on human security in the country is negligible, as the most vulnerable people are poor and based in rural areas and have no access to private security. Security is thus a commodity in the Congo, accessible only to those who can afford it.

Ms de Goede also notes, not surprisingly given the state of the country and its governance and bureaucracy, that the regulation and legislation of the private security sector is limited and ill defined. The minimal regulation is arbitrarily implemented and adhered to. Control is ad hoc, not

transparent, informal and based on personal relations. The government does not have effective oversight and control mechanisms over the private security industry. Although in principle this might be reason for concern and there undoubtedly is a need for improved legislation and regulation, these needs must also be seen in proportion and 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 and, against the background of the general process of state reconstruction at every level, the regulation of the private security industry is understandably not a high priority on the government's agenda. In her conclusion, Ms de Goede stressed the importance of the reform of the private security industry, emphasising that it should form part of the process of state rebuilding and should be taken into account in security sector reform strategies.

DISCUSSION

Questions, Responses and Comments

- **The vulnerability of contractors has become an issue. Has BAPSC had any experience with employees who have suffered this type of vulnerability?**

The BAPSC code of conduct has an element of care (insurance) for contractors.

- **Can a central body be created to mediate between the police and private security actors?**

There have been two attempts to create a central body to mediate between the police and private security actors, but there is reluctance on the part of the police. There has been a move to allocate a member at the NPA to deal with PSCs' legal issues. There is a greater need to work in partnership, given the increasing crime rate. There is rivalry between tracker companies – they are reluctant to share information and therefore you cannot really turn it into police intelligence.

- **Is there a way that the regulation of private security can be simplified?**

Great caution is needed when looking at simplifying regulation of the security sector.

- **Why has the momentum to reform the private security sector not been as strong as reform in the public security sector?**

The rivalry between the public and private security actors can be linked to the conduct of the police during apartheid; it has also led to the creation of the ICD and PSIRA.

- **How can one ensure the safety of the private security guard one hires?**

Governments must be clearer on where PSCs actually fit in and whether PSCs are viewed in a favourable light or are viewed as a challenge for public security actors.

■ **Can the regulatory and developmental gap be bridged?**

There should be post-incident forms for PSCs to fill in. However, this is something that should be regulated by the government.

■ **Is the government becoming complacent about fighting crime because of the number of PSCs in South Africa?**

Private security actors tend to be better resourced and therefore there is an over-reliance on them. There is recognition that PSCs can assist in the fight against crime, but the government must target township crime much more.

SESSION FIVE

THE WAY FORWARD

Chair: Mr Chris Maroleng, Institute for Security Studies

THE SWISS INITIATIVE

Mr Marcus Dutly, Embassy of Switzerland and Mr Jamie Williamson, International Committee of the Red Cross

In their joint presentation, Mr Dutly and Mr Williamson outlined the aim of the Swiss Initiative, in cooperation with the ICRC, to promote respect for international humanitarian law and human rights law by private military and security companies operating in conflict situations.

They noted that in recent conflicts private military and security companies have increasingly been used by a number of states and, although the presence of such actors is not new, the range of their activities has changed. They also highlighted the fact that there is no gap in the law; however, difficulties have arisen in bringing proceedings to enforce such responsibilities in practice. The speakers feel that the applicable legal framework is sparse and often insufficient and there is no international regulatory framework specifically focusing on the private security industry and its activities. It is in the absence of this framework that the Swiss Initiative was developed.

The objectives of the Swiss Initiative include the following:

- To contribute to the inter-governmental discussion on the issues raised by the use of private military and security companies
- To reaffirm and clarify the existing obligations of states and other actors under international law, in particular under IHL and human rights law
- To study and develop good practices, regulatory models and other appropriate measures at the national or even possibly regional or international level, to assist states in meeting their responsibility to ensure respect for international humanitarian and human rights law.

Future steps include:

- Further studying the details of good practices in promoting respect for IHL and human rights to assist states in their relations with private military and security companies
- In the medium term, bringing recommendations made to forums at regional and international level
- Continued broadening of their outreach to interested states and stakeholders on the part of Switzerland and the ICRC

In conclusion, the speakers expressed their hope that the Initiative and the inter-governmental dialogue it aims to facilitate will contribute to the search by states for appropriate national regulatory solutions and measures.

DISCUSSION

Questions, Responses and Comments

- **Could SADC or the UN eventually adopt the Swiss Initiative?**
It is possible that SADC or the UN could eventually adopt the Initiative, but it is too early to judge.
- **How does the DSP project tie in with the Initiative?**
The DSP project will be doing more work with the ICRC and the Swiss Initiative in the future.
- **How is the process being followed in practice? Will there be information-sharing sessions on the Initiative in future?**
There will definitely be information-sharing sessions, as the involvement of civil society groups active in the private security sector is vital for the Initiative.

CLOSING REMARKS

Maj.-Gen. (Rtd) Len le Roux, Institute for Security Studies

In his closing remarks, Maj.-Gen. le Roux pointed out that it was important in such debates to ask the question whose security is being talked about. As was highlighted during the discussions, what seems to be the case is that private security is for those who can afford to pay for it, while the majority of Africans live in abject poverty. The commercialisation of security neglects the need for the provision of security for rural and poor communities while concentrating on the more affluent urban areas.

Maj.-Gen. le Roux emphasised the fact that the abdication of responsibility by the state or the inability of the state to provide services in key functions such as security was the main reason for the growth of the private security sector. He argued that the state must supply basic or general security to its citizens and the role of the private security sector was to complement this role and to provide other specialised services.

The issue that arose from the discussions was that the state has a monopoly over the use of force and the emergence of the private security companies, which also use force, could become a threat to the state. Given this situation, Maj.-Gen. le Roux raised a pertinent question relating to the extent to which the private security industry should be allowed to undertake the state's core functions that involve the use of force.

Related to the above was the question of how to find the best approach, where every citizen (rich or poor) would enjoy security. He argued that perhaps the best approach was to address security issues within the context of security sector reform (SSR) or maybe within what he termed 'security thinking reform'. He submitted that SSR should look at an integrated approach to human security. Therefore, considerations relating to threats to human security should be identified and the role of the state and the private security sector, including their functions and powers, should be defined. Any meaningful approach to security should be participative and consultative. The private security sector must therefore be positioned within the national security context.

In terms of security thinking reform, Maj.-Gen. le Roux argued that there was a need to look at whose security is being addressed, what the roles of the security forces are and what the scope of the private security operators is. To this end, he pointed

out that we need regulation (not over-regulation), control, oversight and sanctioning power. Most importantly, we need dialogue. With the ISS project, such dialogue had already begun.

From the discussions, Maj.-Gen. le Roux identified the private security industry as comprising private security companies (PSCs) mostly concentrated on the domestic security system and private military companies (PMCs) and PSCs that export military and security-related skills abroad. While the exportation of military and security-related skills is an old phenomenon, there is a need to draw a line between what are acceptable private functions and what are not, as the latter largely border on mercenary activities.

Maj.-Gen. le Roux reminded participants of the need to address the concept of outsourcing. He argued that there was a need to identify core functions of the state that could not be privatised and those (ancillary) functions that could, such as airlifting, guarding, etc. An interesting dimension related to the question of who was a combatant in an armed conflict given that private security operatives do a lot of work in this environment. What complicates the matter is the fact that private operatives sometimes engage in defensive actions using arms and the question is whether such engagements make them combatants.

In terms of international humanitarian law, Maj.-Gen. le Roux reiterated the fact that there was no legal vacuum in IHL regarding the involvement of the private security industry in armed conflict. He observed that what was needed was the effective implementation of IHL at various levels through state obligations, national laws (in line with IHL), contracting, training and regional and subregional protocols.

In conclusion, Maj.-Gen. le Roux emphasised the need for further dialogue on this important subject. He thanked participants for engaging in the debate and told them about the outcome of the conference, the publication of a monograph. Addressing the way forward, Maj.-Gen. le Roux informed participants of the forthcoming Conference on the Elimination of Mercenarism in Africa, to be held late in the year in Addis Ababa, Ethiopia, the objective of which was to feed into the inter-governmental process of revising the 1977 OAU/AU Convention for the Elimination of Mercenarism in Africa.

Appendices

Appendix A: Conference Pogramme

Appendix B: List Of Participants

APPENDIX A

CONFERENCE PROGRAMME

Wednesday 18 April 2007: Welcome Reception

19:00–21:00	Presenters' dinner hosted by the Institute for Security Studies at	WangThai
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Thursday 19 April 2007: Day One

08:30–08:50	Welcome: The Defence Sector Programme	Maj.- Gen. (Rtd) Len le Roux, Institute for Security Studies
08:50–09:15	The DSP Project: The Regulation of the Private Security Sector in Africa	Mr Sabelo Gumede, Institute for Security Studies
09:15–09:40	Introductions and group photo session	
09:40–10:00	Tea/coffee break	
10:00–13:00	Session One: Setting the Scene of the Private Security Sector in Africa	Chair: Mr Sabelo Gumede, Institute for Security Studies
	Weak States and the Growth of the Private Security Sector in Africa: Whither the African State?	Dr Sabelo Ndlovu-Gatsheni, Monash University, South Africa
	Private Security Activities and the Nexus between Natural Resources and Civil Wars in Africa	Dr Foaleng Mpako, Graduate Institute of International Studies, Geneva
	15 min coffee/tea break	
	Ethical Security: The Private Sector in Peace and Stability Operations	Mr J J Messner, International Peace Operations Association
	Case Study One: The Democratic Republic of Congo	Ms Meike de Goede, Independent Political Analyst/Consultant, DRC
	Discussion	
13:00–14:00	Lunch	
14:00–16:00	Session Two: The Need for Reform of the Private Security Sector	Chair: Ms Lauren Hutton, Institute for Security Studies
	The Private Security Sector and the Opportunities for Security Sector Reform in Africa	Dr Jeffrey Isima, Cranfield University
	The Private Security Industry in Kenya	Lt- Col. (Rtd) Jan Kamenju, Security Research and Information Centre
	The State, Security Dilemma and the Development of the Private Security Sector in Swaziland	Prof Hamilton Simelane, University of Swaziland
	Case Study Two: South Africa	Ms Raenette Taljaard, Helen Suzman Foundation
	Discussion	
16:00–16:20	Tea/coffee break	
16:20–16:30	Summary of the day's proceedings	Ms Amelia du Rand, Institute for Security Studies

Friday 20 April 2007: Day Two

09:00–11:00	Session Three: International Humanitarian Law and the Private Security Sector	Chair: Prof Hamilton Simelane, University of Swaziland
	The Position of PMCs and PSCs in International Humanitarian Law	Mr Jamie Williamson, International Committee of the Red Cross
	Regulating Private Security Contractors in Armed Conflict: International Humanitarian Law and the Principle of Distinction	Ms Katherine Fallah, University of Sydney Research Associate to the Judges of the Federal Court of Australia
	Discussion	
11:00–11:30	Tea/coffee break	
11:30–13:00	Session Four: Regulation and Oversight of the Private Security Sector	Chair: Maj.-Gen. (Rtd) Len le Roux, Institute for Security Studies
	Oversight and Monitoring of Non-State/Private Policing: Dealing with Misconduct, Use of Force and Criminal Activities by Private Security Practitioners in South Africa	Prof. A Minnaar, Department of Security Risk Management, Law Dept, University of South Africa
	The International Regulation of Private Security Companies: Lessons Learnt for Africa	Dr Sabrina Schultz, British Association of Private Security Companies
	Case Study Three: Uganda	Mr Solomon Kirunda, Parliament of the Republic of Uganda
	Discussion	
13:00–14:00	Lunch	
14:00–14:30	Session Five: The Way Forward	Chair: Chris Maroleng, Institute for Security Studies
	The Swiss Initiative	Mr Markus Dutly, Embassy of Switzerland
		Mr Jamie Williamson, International Committee of the Red Cross
	Discussion	
14:30–14:50	Summary of the day's proceedings	Ms Amelia du Rand, Institute for Security Studies
14:50–15:00	Closing Remarks	Maj.-Gen. (Rtd) Len le Roux, Institute for Security Studies
Departures		

APPENDIX B

LIST OF PARTICIPANTS

Sr	Title	First name	Last name	Institution	Email
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4	Mr	Jan	Kamenju	SRIC	src@srickenya.org
5	Mr	J J (Jamie John)	Messner	International Peace Operations Association	jmessner@ipoaonline.org
6	Mr	Solomon	Kirunda	Parliament of the Republic of Uganda	solwill@gmail.com
7	Ms	Meike	de Goede	Independent Consultant	meikedegoede@yahoo.co.uk
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9	Ms	Raenette	Taljaard	Helen Suzman Foundation	raenette@mwweb.co.za
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11	Prof	Anthony	Minnaar	University of South Africa	aminnaar@unisa.ac.za
12	Dr	Sabelo	Ndlovu-Gatsheni	Monash University	sgatsha@yahoo.co.uk
13	Mr	Jamie	Williamson	International Committee of the Red Cross	ihl.pre@icrc.org
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