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Regulating the Private Security Sector: An Imperative for Security Sector Governance in Africa

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Abstract

The recent proliferation of private military and security companies in Africa reflects a global trend in which non-core security functions of the state are increasingly being outsourced to the private sector. This is the unravelling of the processes of globalisation and privatisation, which even powerful states have found difficult to resist. A major security concern has been that while powerful states are able to retain core security functions within the public sphere and effectively regulate the private security sector, sub-Saharan African countries do not face the same scenario. The fragility of the state makes it possible for the expanding scope of privatisation to encroach upon core security functions. So far attempts to regulate the industry by African states and the international community have been almost non-existent, with a few exceptions. The concern of this paper is to find the appropriate point where the public and private security sectors in Africa should meet. It argues that effective regulation of the industry is integral to and a potential instrument for security sector reform (SSR) in the region, and suggests the conditions under which security sector reform in Africa can be enhanced through the private security sector.

Introduction

The need to regulate the operations of private security providers, including private military companies (PMCs) and private security companies (PSCs), has become a major policy concern across the globe, which has in turn generated growing academic discourse since the turn of the millennium. This concern has centred essentially on how to make sure that the private security sector or industry (comprising both PMCs and PSCs) does not threaten human security (the security of regimes and that of citizens) in the course of their operation. This concern is well placed because, although the mandate of the sector is to supply additional security to the one provided by the state, the companies and their personnel are legally armed and authorised to use such arms which can be and has been misused, and this makes them both a potential and real source of threat to human security. This threat is most ominous in Africa, where human security falls far below the rest of the world, and where the bargaining strength of the state in relation to the more powerful (Western) corporate security actors is considerably weak. Thus regulating the sector in Africa is essential to bringing the delivery of private security into conformity with the overall goal of human security, by making their corporate activities more transparent, accountable and subject to public control.

However, most known efforts at regulating private security have tended to focus narrowly on the private sector in isolation and on the technical issues of legal control. The broader gamut of actors involved in the provision and regulation of security as well as the central political and social context of African states within which the privatisation of security occurs have been lamentably sidelined in regulatory calculations. The outcome of this approach has been the obvious difficulty, if not failure, to achieve appreciable results in the regulation of private security firms, particularly in Africa. This paper argues that the privatisation of security is a function of weak state capacity in Africa, and that unless this is taken into account, regulation will not deliver the desired results. One area where this capacity deficit is most crucial is the provision of non-exclusionary, effective and accountable security for citizens. Regulation therefore must be planned and implemented within an overall goal of making the state ensure the delivery of such security.

The private security sector in Africa is in itself a reflection of a global trend, by which the post-Cold War triumph of neo-liberalism at the turn of the 1990s and its global expansion since then have given impetus to a shift towards privatisation. This is particularly so within the security sector in more recent times, with the outsourcing of non-core functions to PSCs in the West and the exportation of these privatised services to conflict and post-conflict settings (Iraq and Afghanistan).¹ Thus the remit of the Weberian state as wielding the monopoly over the means of legitimate violence has shrunk with privatisation, giving way to an increasing ceding of the traditional security space to private actors on a global scale. However, while the more stable countries of the West have managed to

¹ Schreier, F. and M. Caparini, 'Privatising Security: Law, Practice and Governance of Private Military and Security Companies', 2005, p. 4

hold on to the 'control' over the use of legitimate violence by retaining their core security functions and effectively regulating private security providers, this is far from the case in Africa. Rather it is the low institutional capacity of the African state to deliver the public good of physical security for citizens efficiently and effectively that creates the security vacuum, which is increasingly being filled by the private sector in response to genuine demands of citizens for protection.² This has meant that the African state is unable to retain its core security functions and to act effectively as regulator of private actors. It has also meant that privatisation has reduced the scope of the state in the performance of its most vital functions of providing security for all of its citizens, with serious implications for human security and development in the region.

Under such circumstances, the following questions need to be addressed urgently: What is the appropriate limit to privatisation in the security sector of African states? To what extent is the existing approach to regulation of private security capable of improving effectiveness and efficiency in the wider security sector of African states? If regulation is to be integrated within programmes of SSR that seek to enhance the institutional capacity of the African state to perform its core security functions and to control the use of the means of violence, what are the requisite conditions? These questions are addressed in the subsequent parts of this paper. The paper briefly examines the nature of the state in Africa and the political context in which security is being privatised. The paper then goes on to discuss the nature of privatisation of security in Africa and its real impacts on human security. This is followed by an assessment of the current approach of regulation and the imperative for linking it to SSR. The final section of the paper discusses the proposal for integrating regulation within SSR programmes and offers policy recommendations to support the proposal.

The State and Security Provision in Africa

Stateness – the quality of being a state – is the extent to which a state is able to wield firm control over standing armies and police forces while eliminating non-state controlled armies, militias and gangs (Migdal 1988:18). In practice, though, the ability of real states to approximate the Weberian ideal state has varied markedly, both in temporal and spatial dimensions. This empirical variation determines the classification between *strong* and *weak states*. Strong states have been able to wield a high level of *social control*, while leaders in weak states have been unable to achieve dominance in large areas of their countries and face impenetrable barriers (from tribes, multinational companies, etc.) to accumulation (Migdal 1988:35-49).

² See Shearing, C., 'Policing: Relationships Between Its Public And Private Forms', 1993, pp. 203-228; Ryan Carrier, *Dissolving Boundaries: Private Security and Policing in South Africa*, 1999; and Holmqvist, C., 'Private Security Companies: The Case for Regulation', 2005, p. 11

It has been observed that states in the developing world have not been able to surmount these barriers because their *institutional capacity* is weak (Thomas 1989:182). In most sub-Saharan countries, while independence was achieved with euphoria and high expectations, the new national elites did not address the dualism of the colonial era – the coexistence of non-formal traditional institutions and formal state structures. Rather, they maintained what has been called the *artificiality* and *remoteness* of the colonial state (Azarya & Chazan 1998:112-114). This failure undermined the ability of the post-colonial state to meet expectations and prompted the disengagement of sections of the population from the state. One important form of this disengagement is the *parallel systems* or what Hills (1997:42-3) calls the *parallel universe*, which offers alternative outlets for needs that remain unfulfilled by official channels.

The post-colonial state in Africa has therefore displayed a weak, if not failed, transition from private to public monopolies of the means of legitimate violence – the first and necessary stage in the attempt to fit (as much as possible) into quintessential stateness.³ In most countries on the continent, regional power holders, power challengers, traditional authorities and armed bands have existed side by side with the state and have shared with the state in the use of the means of violence, with some degree of legitimacy. Furthermore, in many countries of Africa, the provision of security has long been private in the sense that it was provided as a private good for the protection of particular groups, such as the ruling elite, to the exclusion of or against others, rather than as a public good.⁴ Yet as Laurie Nathan (2001: 5) rightly observes, though conflicts zones such as Somalia and Liberia may often be cited as typical examples of states that have failed to provide public security for all, such countries are rather to be seen as extreme cases on a continuum of weak states throughout sub-Saharan Africa. Thus there has never been a clear-cut distinction between private and public security in most Africa states, in the real sense of the terms. Moreover, many states have never managed to develop an autonomous public security system as the logic of authoritarian rule has led to the personalisation and misuse of security forces for private rather than public interests. The post-Cold War commercialisation of security is only an element of privatisation in Africa, and it is in this context that the private security industry in the region has to be assessed.

Privatisation of Security and Human Security in Africa

Although security has always been private in Africa, the current boom of the corporate sector in the context of endemic weak state capacity raise even more serious concern about where to draw the boundary between the public and private spheres of the security sector. Yet in the peculiar context of Africa discussed above the real concern is not so much about

³ The concept of transition from private to public monopolies is borrowed from Kaldor (2000:3)

⁴ Bourne, M., 'Security Sector Reform and the Challenges and Opportunities of the Privatisation of Security', 2002, p. 16

whether corporate actors should be allowed as about how they should act along with the state in provision of effective and accountable security for the entire national population. It is therefore essential to examine the real experience of the private security sector and human security to arrive at analysis that is useful for policy Africa.

Private sector engagement in Africa's security has been both constructive and injurious to security. Given the reality of huge deficit in public security, the private security sector has acted to bolster regime and human security in many unstable and transitional African states. Fragile governments in conflict zones have themselves sought the help of PMCs to prevent the collapse of authority and anarchy. The combat operations of Executive Outcomes in support of the government in forces in Sierra Leone and Angola during the conflicts there are some of the instances. Other PMCs such as Saracen and the Ronco Consulting Group (American) have been involved in post-war de-mining in Angola, Namibia and Mozambique.⁵ In war-weary Uganda where the security infrastructures of the state were heavily strained, the Government was willing to concede aspects of security provision to indigenous private companies.⁶

Furthermore, the private sector has played crucial roles in conflict management and post-conflict peace-building in Africa in recent times. These new roles became particularly urgent with the debacle of United Nations peacekeeping operations in Africa from in the 1990s, as demonstrated by its unacceptable failure in relation to the humanitarian disasters in Darfur, Rwanda and Somalia. It was therefore not surprising to see increasing outsourcing of international operations to the private sector since the beginning of that decade. For example, the Pacific Architects and Engineers (PAE) and DynCorp provided logistics support to the UN Mission in Sierra Leone (UNAMSIL), as well as refurbished airfields and managed air traffic control for the UN Mission in DRC (MONUC).⁷ In Liberia, the ICI and PAE provided military aviation to ECOMOG forces in the peace support operations. The UN Mission in Ethiopia and Eritrea (UNMEE) also contracted a commercial de-mining team to replace the Slovak military de-mining group⁸ (?). In conflict-ravaged Sierra Leone PSCs have helped to absorb between 3000 to 5000 youths, many of who are demobilised ex-combatants, where state could not provide jobs.⁹

⁵ Schreier, F., and M. Caparini, 'Privatising Security...' op. cit, pp. 23 & 25

⁶ Alao, A., 'Privatisation of Security and Security Sector Reform in Uganda' 2002, p. 37

⁷ Schreier, F., and M. Caparini, 'Privatising Security...' op. cit, p. 24; Ghebali, V., 'The United Nations and the Dilemma of Outsourcing Peace Operations', 2006, p. 223

⁸ SDA, 'The Private Security Phenomenon: Policy Implication and Issues', op. cit, p.

⁹ Abrahamsen, R. and M. Williams, 'Security Sector Reform: Bringing the Private In', 2006, pp. 10-11

Even in more peaceful settings, the inability of the state to control crime has forced the outsourcing of aspects of the criminal justice system to local PSCs. South Africa is the most glaring example where security firms are involved in policing, prosecution and prisons accommodation.¹⁰ In Kenya, about 2000 local PSCs currently employ over 48, 000 personnel for guarding protection services; while multinational oil companies such as Shell and Chevron have contracted PSCs to provide security for their commercial operations in the volatile Niger Delta, where the state has failed to provide protection from hostage-taking militias.¹¹ In addition, PMCs have provided vital training for national forces. For instance the United States has since 1999 provided military assistance on education and training through its PMC, Military Professional Resources Incorporated (MPRI), to the new democratic government in Nigeria on peacekeeping and civil-military relations in a country that had been used to coups and prolonged military rule.¹² The private security sector has therefore become a necessary reality of the security sector in Africa, and they have increasingly filled the space left by the fragmentation of state authority.

Yet the increasing commercialisation of security, though necessary, has generated well-known and troubling insecurities for regimes and populations in many African countries. PMCs' activities on the continent have aggravated existing political instabilities and generated new insecurities. A few examples here include the failed attempt to violently overthrow the government of Equatorial Guinea in March 2004, involving South African PSC operators; and the alleged involvement of the South African PMC, Omega Risk Solutions in the failed attempt to unseat the government of Congo (DRC) in May 2006.¹³ These activities suggest that some private security firms are more like latter day corporate reincarnation of the mercenaries of the 1960s and 70s that destabilised regimes in Africa through coup attempts and the campaign of violence against UN operation in the Congo (ONUC 1960-1964).¹⁴ PMCs' have also served as instruments of external intervention in Africa's internal and regional armed conflicts. It is well known that combat crafts hired from Russian private companies played decisive roles in the recent Ethiopia-Eritrea

¹⁰ Schonteich, M., 'Introduction', in Schonteich, M., et al, *Private Muscle: Outsourcing the Provision of Criminal Justice Services*, 2004, p. 10; and Goyer, K., 'Incarcerating and Rehabilitating Offenders', in Schonteich, M., et al, *Private Muscle...*

¹¹ Wairagu, F., J. Kamenju and M. Singo, *Private Security in Kenya*, 2004; Holmqvist, C., 'Private Security Companies: The Case for Regulation', op. cit., p. 7

¹² Adejumobi, S., 'Guarding the Guardian? The Obasanjo Regime and Military Reform in Nigeria', 2001, pp. 17-19; and Bourne, M., 'Security Sector Reform and the Challenges and Opportunities of the Privatisation of Security', 2002, p. 20

¹³ Taljaard, R., 'Implementing South Africa's Regulation of Foreign Military Assistance Act', 2006, pp. 177-181

¹⁴ UK FCO (Foreign and Commonwealth Office), *Private Military Companies: Options for Regulation, 2001-02*, 2002, p. 14

war.¹⁵ The UK-based Sandline precipitated the 'Arms to Africa' scandal by delivering weapons to the Government of Sierra Leone in 1998 in blatant contravention of a subsisting UN arms embargo. In the heat of that scandal, the company's Chief Executive, Tim Spicer, claimed that the UK Government knew of and even approved the arms deal.¹⁶ Similarly, AirScan smuggled arms into Southern Sudan as part of covert US support for the Sudanese People's Liberation Army (SPLA) during its protracted war with the Government.¹⁷ AirScan has also conducted suspicious intelligence operations, involving aerial surveillance on oil installations in the Cabinda region, for the Government of Angola.¹⁸ In the same vein, Life Guard has been accused of shipping arms to the rebels in Sierra Leone, while it was protecting the diamond fields during the war.¹⁹ Such external interventions have come to replace the Cold War era of imperialistic involvement in Africa's conflicts by the big powers, which further militarised the region and aggravated conflicts.

A most important driver of such indirect intervention by external forces is narrow material interest in Africa's resource-rich countries. It has been found out that after the EO, which had close relations with the Branch-Heritage Group, secured the resource-rich areas for the Angolan government, concessions over those resources were awarded to one of Branch-Heritage's subsidiaries. This was also the case with EO's operation in Sierra Leone.²⁰ This practice has become so entrenched that the UN Commission on Human Rights in March 2002 established a clear link between modern-day mercenaries and the illegal diamond trade in Africa.²¹ It is a too-well-known fact that such illegal deals in Africa's resources help fuel and prolong the region's violent conflicts. Such narrow, self-interested agendas have provided temporary military victory for fragile regimes at the expense of long-term resolution of conflicts, as was the case with EO and Sandline operations in Sierra Leone.

The privatisation of security has also created deep crises within the state's security sector, including the destabilisation of civil-military relations and the weakening of state security institutions. In Nigeria, for example, the outsourcing of military training to MPRI mentioned earlier generated frosty relations between force headquarters and the Presidency. The service chiefs protested against what they saw as unfettered access and privileges given to MPRI personnel by the government in the

¹⁵ Isenberg, D., *Soldiers of Fortune Ltd.: A Profile of Today's Private Sector Corporate Mercenary Firms*. Center for Defence Information Monograph, 1997

¹⁶ Mathieu, F. and N. Dearden, *Corporate Mercenaries...* op. cit., p. 3

¹⁷ UK FCO, *Private Military Companies...* op. cit.

¹⁸ Schreier, F., and M. Caparini, 'Privatising Security...' op. cit, p. 32

¹⁹ Walker, C. and D. Whyte, 'Contracting out War? Private Military Companies, Law and Regulation in the United Kingdom', 2005

²⁰ Ibid, p. 5; UK FCO, *Private Military Companies...* op. cit.

²¹ See the report of the UN Special Rapporteur, Enrique Ballesteros, 'Use of Mercenaries as Means of Violating Human Rights and Impeding the Exercise of the Rights of Peoples to Self-Determination', 2002

implementation of their contract within defence headquarters. In response, the MPRI used its informal influence on the government and forced the immediate retirement of all three service chiefs. This incident makes it very obvious that MPRI and similar Western security firms are very powerful external forces, which the state lacks sufficient strength to bargain with over sensitive issues of national security.

When the inability of the state to provide adequate security is combined with poverty, the privatisation of security exacerbates the conditions of social inequality and exclusion. In South Africa people who once enjoyed the privileges of apartheid now live behind the fortress of security, while those who are economically disempowered have been pushed further to the margins of insecurity. This inequality is more troubling because it coincides with racial division in terms of not only those who are able to buy security, but also of those who provide private security – former officers of apartheid security forces, now better paid than their counterparts in the new security services.²² This has further weakened the capacity of the new South Africa to provide effective non-exclusionary protection for its population, including the poor. The consequence has been the spread of popular but violent vigilante justice against alleged criminals in poor neighbourhoods and rural areas, with extreme human rights violations. Some of these popular justice initiatives have in the past been hijacked and turned into militia-type formations engaged in urban terror activities.²³

Domestic PSCs have committed violations in the conduct of their operations. The death of 16 people in a stampede caused by private guards at the Tembisa suburb of Johannesburg in July 1996, and the notorious ‘Louis van Schor’ shooting of 41 alleged burglars over several years, are cases in point.²⁴ Privatisation has undermined the will and ability to undertake the difficult task of building effective state institutions that can deliver public security in Africa as regimes rely more on PMCs for their security. This is because privatisation is drawing large amount of manpower away from the public security sector. This particularly so in South Africa where large numbers of detectives left the SAPS for the private sector and where, even as far back as 1999, the ratio of security guards to police personnel involved in visible policing was already 4: 1.²⁵ The fact that most domestic PSC staff have previously worked for the state generates further problem as it creates opportunities for what Duncan Hiscock (2006) calls illegitimate cooperation between PSCs and security institutions. A good example of this is Uganda where President Museveni’s younger brother, Major-General Salim Saleh who still serves

²² Kruger, F., ‘South Africa’s Growing Private Army’, 2004

²³ One good example of the extreme cases were the People Against Drugs and Gangsterism (PAGAD), which operated in the Coloured Moslem communities of the Cape Flats, near Cape Town between 1995 and 2000

²⁴ Shaw, M., ‘South Africa: Crime in Transition’, 1997, p. 169

²⁵ Ibid, p. 162

in the armed forces, owns the Security Saracen (often seen as an extension of the army).²⁶ Such arrangements is dangerous for good governance in the security sector and creates unwholesome relationships between the police and the ex-service personnel now in the private security sector that could negatively affect public procurement contracts and lead to influence peddling by PSCs owners to the detriment of the public security forces.

It is therefore obvious that although the private sector offers essential capabilities that governments in Africa have failed to perform, security issues are so central to the survival of the state and populations that private providers cannot be allowed to operate without some form of overarching state control. This is because even if the monopoly of legitimate violence is no longer a realistic objective, the control of the use of legitimate violence in the public interest remains an essential condition for improving human security in Africa. The next session examines the current attempts to regulate the private security sector in Africa and the urgency of integrating such efforts within SSR programmes.

Regulation of the Private Sector: An SSR Issue

As mentioned earlier, current efforts to regulate the private security sector has virtually treated the sector in isolation and has approached regulation from a technical perspective of legal control. Three main existing options for regulation are banning activities that are deemed illegal; licensing of individual firms and sometimes approving particular contracts; and self-regulation either by individual firms or industry associations through self-imposed codes of conduct and industry standards in the implementation of contracts.

The first problem with regulation in Africa is that governments are not necessarily willing or able to regulate the sector. Apart from South Africa, deliberate regulation of the industry as a state policy is not very much known to have taken place elsewhere in the continent. It has been rightly observed that, under such conditions regulation may be of low priority for regimes with more pressing concerns and limited capability for legislation.²⁷ This is because the weakness and instability of the state makes most regimes insecure and some of them have even sought the assistance of PMCs to strengthen their relative positions of power in the context of real threats from domestic opponents. The same weakness makes state regulation difficult, particularly when institutions are too weak to deal effectively with foreign companies originating from powerful countries.

Even where there has been an attempt to regulate, existing laws have proved to be insufficient and firms operate in what has been termed as a

²⁶ Alao, A., *op. cit.*, p. 39

²⁷ Wilson, P., 'Private Security Actors, Donors and SSR', 2006, p. 249

legal gray zone.²⁸ At the international level, the UN International Convention Against the Recruitment, Use, Financing and Training of Mercenaries (1989) aims only at prohibiting mercenary activities. Although this may be applied to PMCs engaged in such activities, the convention has no provision for the regulation of private security providers. Similarly, the AU Convention (OAU Libreville Convention for the Elimination of Mercenarism in Africa 1977) focuses on banning mercenary activities without any reference to the legal private security sector. Furthermore, regulation requires a definition of the activities to focus on a categorisation of providers to determine the appropriate option, and efforts in this direction have not produced a generally agreed result.²⁹

At the national level, regulation has been difficult to achieve, and here the case of South Africa is examined. The country's Regulation of Foreign Military Assistance Act 1997 (RFMA) has been described as the most direct effort at regulation.³⁰ Yet the implementation of the Act has been problematic for the government. Many South African firms are currently engaged in the war in Iraq without meeting the requirements of the RFMA.³¹ Only two companies did apply for licensing between 2003 and 2004, even though the applications were turned down. Omega Risk Solutions, the company that was accused of coup plotting in DRC last May, did not have the approval of the National Conventional Arms Control Committee (NCACC) responsible for licensing foreign military assistance.³² Firms have been clever in moving the base of their operations abroad to avoid the country's legal jurisdiction, and the exclusion of humanitarian activities creates a legal loophole for PMCs to engage in Iraq.³³ In addition to these difficulties, the state also lacks the capacity for prosecute and punishment of offenders. Some of the industry operators in Iraq were once convicted for violating the law, but have managed to re-offend by slipping through to Iraq. Prosecution remains very weak and has led only to plea bargains and minimal sentences, as seen in the recent cases of Mark Thatcher, Simon Mann, Richard Rouget and Carl Albert.³⁴ A formidable challenge is the secrecy surrounding PMC operations, which makes it difficult to obtain sufficient evidence for prosecution.³⁵

²⁸ Wulf, H., 'Reconstructing the Public Monopoly of Legitimate Force', 2006, p. 94

²⁹ For various attempts to categorise firms within the industry, see Schreier, F., and M. Caparini, 'Privatising Security...' op. cit, pp. 33-43; and Holmqvist, C., op. cit. p. 5

³⁰ Taljaard, R., 'Implementing South Africa's Regulation of Foreign Military Assistance Act', 2006, pp. 170-173

³¹ Ibid, p. 169

³² Ibid, p. 180

³³ Ibid, p. 170

³⁴ Ibid, pp. 174-177

³⁵ Ibid, p. 180

Self-regulation has not been less problematic. One of the major problems in the case of South Africa is the fragmentation of the industry. There were as many as 22 associations of private security firms as far back as 1999.³⁶ This makes overarching regulation and internal accountability within the industry difficult to achieve. Again, self-regulation is voluntary and it is very much doubtful, given the air of secrecy within the private security industry, that firms would not protect themselves within the industry and hide critical information from the public domain.

Given the problems of regulating the private security sector and the valuable contribution of the sector to security provision in the context of state weakness in Africa, the fundamental question to ask is how to engage private security in a broader effort to enhance the capacity of the state to manage the provision of effective, accountable and non-exclusionary security for all citizens. This should be the goal of any engagement with the private security sector rather than the narrow focus on technical regulation. Moreover, the effort to regulate the sector has largely been driven by concerns that are SSR issues, while the private sector has helped to facilitate SSR and parallel programmes in some countries. For example, the absorption of demobilised former fighters in the private security of Sierra Leone helped to ease the DDR programme there.

Yet in spite of the reality of the private security industry in Africa and the dangers it poses to human security in the region, the industry has been completely overlooked by SSR in practice. Programmes of SSR in the region exclusively target the public security forces, particularly the military, the police, the intelligence services and the civilian structures for their control and oversight. Although a few external supporters of SSR in Africa have mentioned non-state actors as elements of the security sector, this has not been more than a vague reference as the main emphasis has remained on the public security sector.³⁷ Excluding the private providers of security in the process of reform may create the danger of leaving behind an unaccountable parallel security sector, as argued by Damian Lilly and Michael Page (2002: 14) and may act in competition with the reformed state security sector and undermine the gains of reform.

Conclusion and Policy Options

The privatisation of security in sub-Saharan Africa is a symptom of the weakness of the state as it is the most formidable challenge to SSR in the region. As far as improving the provision of public security for citizens remains the central security predicament in the region, addressing the roots of private security and enhancing state regulation of the private sphere must be seen as crucial concerns for SSR. Domestic and external efforts at promoting the goals of SSR in the region must therefore begin with helping the region to make that vital transition from weak to stable and

³⁶ Irish, J., Policing for Profit...op. cit

³⁷ for such references to the private sector, see OECD, 2004, Security System Reform and Governance: Policy and Good Practice, Organisation for Economic Cooperation and Development, Paris

effective states. This is because privatisation of security betrays the failure to build bureaucratic capacity for effective service delivery in the state-making process.

The attainment of democratic security governance requires that both the public and private security services be made both accountable and responsive to citizens, and this can only be achieved through an inclusive process of SSR that integrates private security providers within the security sector. The context of Africa requires specific solutions that are suitable to the realities of security and private engagement. The following recommendations are suggested for planning and implementing the integration of private security regulation into reforms that seek to improve access to effective and accountable security for all:

- Rethinking the notion of regulation is crucial first step to dealing with the problems discussed in this paper. A more appropriate concept would be integration. This means that rather than expending efforts on an inefficient approach to the private security sector, the security sector should be redefined not only in theory, but most critically in practice. This would require taking a broader view of the sector in a way that integrates corporate actors into on-going SSR work in such places as Sierra Leone, Liberia and the DRC, and into future SSR and parallel programmes in the region.
- Reforming states must ensure the principles of transparency and parliamentary oversight are applied to the private security industry. Regulation has emphasised executive control and neglected parliamentary scrutiny, which is vital for ensuring transparency in the industry
- There is need to for states to negotiate a division of labour that would allow private and public actors to specialise in their areas of competence. Within such arrangements, the core security functions of the state must not be privatised. These include combat duties, intelligence work, prisoner interrogation, detention, prosecution and prisons. The capabilities of the private sector in training and advising security forces as well as in providing protection and needs to be harnessed by the state to bolster security provision. The sector cannot be approached simply in terms of regulation, but needs to be regarded instead as part of a wider network of security provision, involving the state, private actors and the civil society. The details of such specialisation must be left to local actors to work out through dialogue
- Reforming states also need to strengthen their monitoring of the private security sector. This can be done by setting up independent public complaints bodies that can entertain and investigate allegations of misbehaviour on the part of private security companies
- At the regional level, there is need for an AU framework that provides strong incentives for good governance in the security

sector of its member states. This is mainly because it is only when a state is ready to reform its security sector that the regulation of private security becomes a viable option. In addition, the AU needs to establish regional enforceable standards for all security firms operating in the region and codes of conduct for assessing firms and sanctioning erring ones

- The Peer Review Mechanism (APRM) of the New Partnership for Africa's Development (NEPAD) has a key role in influencing African leaders. Even though it is a voluntary process and there are no guarantees that state elites would always accept its moral authority, the APRM provides a diplomatic vehicle for good practices to spread within the region
- The regional civil society consultative forum, which works with the AU needs to take up this issue seriously. Civil society at the national and regional levels is essential for stimulating dialogue aimed at fashioning innovative ways of planning the integration of private security into SSR in Africa. Civil society engagement is also important for monitoring private sector activities, particularly where government use foreign companies in an unaccountable manner. Finally, where private security companies complement public security provision, civil society organisations have a role in training private operators on the norms of human rights and democratic accountability

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