Asian Journal of Social Science and Management Technology
ISSN: 2313-7410
Volume 5, Issue 6, November-December, 2023
Available at www.ajssmt.com

Regulating Private Security Industry: Experience from South Africa, Kenya and Tanzania

Eric Sambu

Master of Business Administration, Master of Arts in a Revenue Law and Administration.

Abstract: Private security industry has grown exponentially in the African continent, driven by many factors. Regulatory mechanisms are however varied and appears to be playing catch-up as the industry grows faster than the regulations. This paper therefore explores the regulatory regimes in three African countries: South Africa, Kenya and Tanzania, using comparative analysis. It is a qualitative study that reviewed the regulations and complemented this with interviews on participants selected using convenient and purposive sampling. The study concludes that the three countries have similar challenges in the sector but apply varied approaches with some lessons each country can borrow from each other to improve their regulatory regimes. It recommends institutional, legal, and administrative changes for its effective practice and better resources to coordinate the efforts, from state agencies to trade associations and companies.

Key Words: Private security; Regulation; South Africa; Kenya; Tanzania.

---

1. Introduction

Private security industry continues to elicit interest from academia and policy makers. However, the dearth of literature and statistics is an hinderance and this is driven by the secrecy with which players operate. The industry is innovating and expanding beyond the traditional coverage in services, and regulators are left to play catch-up, always reactive, resulting in outdated regulations (Percy, 2012; Gumedze, 2020). O'connor et al (2004:140) defined regulations as 'the presence of formal, direct mechanisms of control established with the stated intention of preventing or reducing injustice, corruption, negligence, and incompetence'. They argue that in addition to instilling a higher degree of professionalism and increasing accountability, regulations also legitimize the role of private security companies (Crawford, 2006; White, 2011).

This article will contribute to the literature by providing empirical evidence on regulation of private security. It will bridge the contextual gap by focusing on developing economies, to draw experience they have in regulating this critical industry. It demonstrates how systematic research is issues in private sector is used to generate evidence that informs and motivates policy change.

This article is structured to cover the introductory part and methodology, then it discuses private security industry, the trend in its regulation, security situation in the selected countries and hence the regulatory framework. It concludes with recommendations that will help all actors and interested parties within the industry.

2. Methodology

The study that culminated in the paper was qualitative in nature, a comparative analysis, based on the case study of the regulatory regimes in South Africa, Kenya and Tanzania. For this end, this paper used in-depth personal interviews, observation, expert opinions, and documentary review for getting both primary and secondary data. The study began with an intensive literature review and analysis of the legislation governing the private security sector in the three countries.

In total, eight respondents were interviewed in Kenya and Tanzania, covering the trade associations, regulators and executives of private security companies, selected using purposive and convenient sampling. The interviews and discussions were carried out between January and February 2023. The respondents were assured of confidentiality and their identities have not been disclosed in this paper.

The analyses covered state and nonstate regulatory mechanisms: state-led regulations, self-regulation (trade associations) and agency-level (organization) regulation. State-led regulation includes licensing, labour laws and training requirements. Self-regulation involves mechanisms enforced or conducted by trade association from within industry that set the standards. Agency-level regulation are standards set and used by companies to regulate their own employees.

3. Private Security Industry

A debate about the definition of a Private Security Company (PSC) still simmers. Weirs (2018) defines a PSC as a business entity which provides security services and expertise to private and public clients. Percy (2012) traced the evolution of private security from mercenaries, which is outlawed, to Private Military Companies (PMCs), which had a corporate structure but engaging in combat, to the PSC, which concentrate on defensive duties. The focus of this study is on PSCs. They contribute towards a solid base for economic and social development. They form an important tool to achieve government policies and therefore, the public interest in the performance of PSCs is thus often acute (Franke & Von Boeckmann, 2011). From the state's perspective, maximizing PSCs' performance is a goal of overriding importance (Joachim & Schneiker, 2012).

The privatization led to security as a service through a process of commodification. This is described by Krahmann (2008) as the process in which security is no longer exclusively provided by the state, but as something that can be bought on the market, meaning that security becomes a product that can be sold for profit (Krahmann, 2008: 387). Due to the outsourcing of security services by the state, they have created a lucrative market for private security companies because, in the security service markets, the state is not necessarily the most efficient and reliable one for providing security anymore. This leads citizens to turn to private security companies, who can make them feel safe or protect them from threats, through tailored services (Berg, 2003). This in turn reinforced the demand for private security, which can be attributed to the growth of private security in general. The commodification of security has been a precondition for its globalization (Abrahamsen and Williams, 2011: 77, 156), because security has been delinked from the state and depoliticized. Therefore, security services can now be globally exported as a set of technical capabilities and skills.

Legitimacy of the private security sector is another frontier of debate. There are those who accept that private security actors are normal and legitimate actors, and hence forge for continued privatization of security. This school of thought favours the Swiss Initiative and The International Code of Conduct for Private Security Service Providers' Association (ICoCA). The Swiss Initiative accepts PSCs as unavoidable feature of contemporary warfare (Daumann, 2022). On the other hand, there are those feel security is the preserve of the state, hence prefers the United Nation stance, which has been more reluctant to legitimize large scale use of PSC. The Montreux Document, and indeed the ICoCA, presents an opportunity to the PSCs to portray themselves as legitimate and respectable actors in security arena. Percy (2012) pointed out that these industry regulations however still focus on PMCs instead of PSCs, and more so, solutions are for past problems, 'regulating the last war'.

According to ICoCA (2023), PSCs play an increasingly important role in security clients' operations across all sectors. They operate mostly in challenging and complex environments, and can have a positive impact, not only for their clients, but also the local population in their area of operation, general security environment, enjoyment of human rights and the rule of law (ICoCA, 2023). PSC workers are engaged in a wide range of activities from highly specialized investigations of corporate crime, to providing armed security for banks and commercial organizations, to protecting private property in public spaces and commercial buildings (Cukier et al, 2003).

The Global Security Services was valued at USD 240.18 Billion in the year 2020 and is expected to grow to USD. 342.7 billion by 2026 (Azoth Analytics, 2021). It employs between 19.5 to 25.5 million people worldwide (Diphoorn, 2016) and holds up to 3.7 million firearms, with numbers being up to four times the size of police forces (Krahmann, 2017). Statistics from African countries are unreliable, unavailable or less documented than other parts of the world but there is evidence of exponential growth on the ground, though South African sector contributes 2% of the GDP, hence ranked top globally. (Diphoorn, 2016; Abrahamsen and Williams, 2011).

Rapid urbanization, driven by expanding middle class especially in emerging economies, is one of the key factors driving the demand of security services in the market (Azoth Analytics, 2021). Cukier et al (2003) partly attributed their growth to states' budgetary restraints which lead to more and more functions being contracted out; and also an increasing demand for specialized security functions from private sector clients and individuals. It is therefore important to explore the African market, specifically the three selected countries. The next section discusses their security situation and their industry set-up.

4. Security Situation in South Africa, Kenya and Tanzania

The population estimates in 2022, according to CIA (2023) is 57.5 million, 55.8 million and 63.8 million for the three countries respectively. The countries have relatively youthful population, with 45%, 59% and 63% of the population, respectively, being under the age of 25 years. The median ages are 28 years, 20 years and 18 years, respectively (CIA, 2023). Youth unemployment rates are 64%, 13% and 8% respectively, which appears to co-relate with the level of crime. Population below poverty line are 55%, 36% and 26% respectively. GDP is USD.690 billion, USD.95.5 Million, USD.60 million respectively. GDP per capita is USD.13,300, USD. 4,700 and USD.2,600 respectively. These statistics helps to contextualise the security situation in the three countries.

Whereas South Africa and Kenya have high rates of crime, Tanzania remain peaceful. The Global Peace Index[1] 2021 ranked South Africa at 123rd, Kenya at 116th, and Tanzania at 58th out of 163 countries (UNESCO, 2022). South Africa scored 2.344 and climbed one place up, Kenya scored 2.254 and climbed 9 places while Tanzania scored 1.892 points and dropped 9 places. Of those polled in South Africa, 79% was afraid of violence and 57% had experienced violence, putting the country 2nd overall globally[2]. Overall, Sub-Saharan African ranked the highest region in those who experienced violence -at 38% - even though South and Central America ranked higher in those who felt at risk of violence. The UNODC (2022) report seems to corroborate this. It shows that South Africa recorded 5,400 kidnappings, over 189,000 robberies, over 167,000 serious assault cases and over 50,000 sexual violence cases in 2017. South African Police Service report shows murder cases in 2022 had surpassed 25,000, a 26% increase from 2021.

Kenya on the other hand recorded 21 kidnappings, 3,000 robberies, 19,000 assault cases and over 9,000 sexual violence cases albeit with more updated statistics of 2020. Kenya, despite relatively lower rate of crime, is still exposed to terrorist attacks. The memorable incidents were in Nairobi's DusitD2 hotel, the Gateway Mall and Garissa University, which had many casualties. Almost on a weekly basis, news of attacks in the areas nearing Somalia border are reported. This has resulted in the travel advisory issued by the embassies of Western countries against travel to those areas. Kenya is experiencing constant bandit attacks, occasioned by the cattle rustlers, in the North Rift region.

Tanzania's statistics are from 2015 and it shows no kidnapping, 9,300 robberies, 2,300 serious assault cases and 6,000 sexual violence cases (UNODC, 2022). The above shows that South Africa experience exceptionally high rate of crime, almost the highest globally.

5. The Private Security in South Africa, Kenya and Tanzania

South Africa has the largest private security in the continent and ranked the highest in the world in terms of contribution to GDP, at 2% (Abrahamsen and Williams, 2011) Statistics from the regulator, Private Security Industry Regulatory Authority (PSIRA),[3] according to their 2018/2019 report, shows that there are currently 2.36 million security officers registered in South Africa – of which over 498,435 are employed by just over 9,000 registered and active security businesses (PSIRA, 2020). This means that there are close to five security officers to every police officer in South Africa. PSIRA divides the security industry into twenty different categories different services, with similar categorization of security officers registered.

Kenya has a relatively structured private security industry, after setting up a regulatory authority in the same design as South Africa - the Private Security Regulatory Authority (PSRA)[4] in 2016. Despite its existence for the past five years, it has only started to act on the industry, with proper registration and licensing. In the first Legal Notice No.PSRA/01/2023, there were only 183 registered PSCs. The second Legal Notice No.PSRA/02/2023 added another list of additional 70 PSCs. Wairagu et al (2004) had estimated that in 2004, some 2,000 PSCs were operating in Kenya, employing 300,000 officers, 47 per cent of which were in guarding services. This number was reported to have increased to 400,000 in 2007 (Mkutu and Sabala, 2007:411). It means that PSRA had locked out a huge number of PSCs. To stamp its authority, PSRA issued legal notice No.PSRA/03/2023 specifying activities that constitute 'private security services', in nineteen categories. It further warned those engaging in such activities without license, and their consumers, that they risked jail terms or face fines of KES.2,000,000 (about USD 18,000). Registered PSCs receive a five-year license from PSRA upon satisfying legal requirements.

Unlike in Tanzania and South Africa where security officers are licensed to use firearms, Kenya does not allow security officers to be armed. Individuals are however allowed to apply for firearm license to protect themselves only, subject to proving to the licensing authorities that they are under threats. The North Rift region has a huge proliferation of small arms, and it is common to see herders walking around with AK47s. Besides the authorized Police Reservists, the individual herders are not licensed and therefore, hold the firearms illegally, with disarmaments often marred with politics.

Tanzania's private security industry remains hard to estimate, with some statistics indicating 497 PSCs employing 1.7 million officers (Jaba, 2020). Tanzania Security Industry Association (TSIA)[5] indicates that 600 companies as their members, employing over 200,000 officers (Interview, February 2, 2023). The Tanzania Police Force (TPF) indicates that about 2,000 PSCs were granted letters to operate by the end of 2022 (Interview, February 2, 2023). It is not clear how many operate and their actual location. A task force was set by TPF to visit all known companies between 2021 and 2022, but since the geographical spread of the country is huge, they had not issued their report. Tanzania does not have a single regulatory authority like the ones in South Africa and Kenya. Instead, the private security sector in coordinated by TPF, under its Commission for Auxiliary and Community Policing, headed by Commissioner of Police who reports to the Inspector General of Police (Interview, Dar es Salaam, February 2, 2023).

TSIA initiated a data base, supported by TPF, and contracted an independent company - Datavision International – to create a database for all companies and officers they employ. I spoke to the director of Datavision and he indicated that by end of December 2022, only 402 PSCs had been registered with 26,000 officers (Interview, Dar es Salaam, February 2, 2023). What hindered this exercise is the mistrust and fees charged. It was fronted by TSIA, causing the PSCs under other trade associations to shun it, though TPF stood their ground to ensure all PSCs comply, and put it as a precondition to getting a letter to enable them operate.

Many PSCs are complying now given that the new requirement to have letter with expiry date makes them to reapply and demonstrate compliance with registration with the database (Interview, February 5, 2023). Respondent also indicated that TPF had asked the Government Procurement Services Agency (GPSA), to include the new license and a confirmation that the PSC participating is registered in the database as a condition before being allowed to participate in government tenders. I confirmed that this had been done from a number of directors of PSCs, forcing them to register. About the cost, Datavision indicated that they charge TZS.20,000 +VAT (about USD 10) per officer to list in the database. Even though some recover the same from the officers' salaries, they complained that it was exorbitant. However, Datavision explained that it was once-off cost. They had hopes that compliance level will be significant in future when present license expires and they are forced to seek renewal (Interview, Dar es Salaam, February 2, 2023).

Whereas the three countries have varied regulatory regimes and sizes of the industry, they share similarities in the industry. The industry is characterized by fierce competition. There seems to be little barriers to entry and the enforcement of the regulations, both state-led and from nonstate actors is weak, leading to many informal players, saturating the standards and prejudicing the registered players, complying all the requirements. The competition shapes the marketing strategies, the way PSCs handle their clients and how security officers are expected to behave (Diphoorn, 2016). Diphoorn (2016) also gave an account of what South Africa called 'fly-by-nights', the illegally operating companies, which PSIRA had indicated to be 122 in 2012 and they could not trace. In Kenya, the common terminology is *'jua kali'*, referring to informal nature of operation, and players estimate that almost half of the industry in with these non-compliant players. With the move by PSRA to enforce compliance, not only on the PSCs, but also on the consumers of the services of PSCs, this will reduce significantly. Tanzania has two sets of companies under the minimum wage order – small companies and 'international and large' companies. The law did not however set a criterion to use in the categorization, and as one director of a multinational PSCs told me, it is hard for the authorities to pin down a company if they categorized themselves as small. He pointed out that some large PSCs owned by locals, and even by government agencies, employing over 10,000 employees, were still observing minimum wage of the small companies, because they interpret small to mean 'owned by a local Tanzanian'. This creates disparities in the market because the large companies are required to observe a minimum wage which is 50% higher than those of small companies. Despite this recognition in law of the disparities in sizes of PSCs, there are others who do not comply completely and creates the same effect as seen in South Africa and Kenya. (Interview, February 2, 2023).

The security industry in the three countries is still regarded as the lowest sector in the economy, in terms of employment. Despite employing a significant portion of the active labour force, the mere setting of minimum wage so low, and PSCs basing their prices on these set minimum wage, leads to constant pinning of the profession to the lowest level in the labour market. The officers serving are mostly those who cannot find jobs elsewhere, as most directors alluded to in my discussion, and this leads to high turnover in the industry, as the officer leave to other jobs as soon as opportunities arise. Trade associations indicated that some PSCs charge customers so low, and hence resort to reducing internal costs, that mostly affect the welfare of the officers. According to TPF, there is persistent complaints from officers working for PSCs of underpayment, especially of overtime pay, long working hours, poor working conditions, lack of proper kitting, poor labour practices, and poor training. These sentiments were also confirmed by many directors of PSCs in Kenya.

The risk posed by the above challenges is insecurity. The officers will not be able to perform their duties to the required standards and fail to protect the customers and their property. The officers also resort to stealing and this is common in the industry, with TSIA estimating that over half of the theft incidents in places the officers are deployed, are perpetrated by the said officers. TPF confirmed that when a theft incident occurs, the first suspect is always the security officer, and they charge them with theft, and failure to prevent a felony. Often, they confess. Diphoorn (2016) also gave an account about situation in South Africa where the guards are referred as "criminals in uniform" due to frequency of theft by guards. Similar sentiments are given in Kenya where thefts are always suspected to be an "inside job", meaning perpetrated or aided by someone who knows the place well, mostly guards.

Actors in the industry decry the welfare situation of guards. Many live 'from hand to mouth' and often trekking to work from informal settlements. One director said it is such a pity that they are paid the lowest and subjected to inhumane conditions, yet they are expected to guard property of huge value and lives. He expressed surprise that the reported incidents perpetrated by guards are much lower what he would have expected, given their deplorable situation. He accused consumers doing little to enforce standards of welfare, only focus on price during selection of PSCs. Customers stay with them and witness first-hand the desperation of the officers, most of them begging them, their visitors, customer or suppliers, which creates embarrassment. He noted that some customers motivates guards by offering food, tips or transport with their staff, boosting guards' morale (Interview, Nairobi, January 24, 2023).

6. Trend in Regulation of Private Security Industry

The shifting location of power in security arena, from the state to the market/private sector is another debate front. The productive power of PSCs, coupled with their ability attributed this shift to shape identities and discourse in a way that legitimizes their use (Daumann, 2022, Prem, 2020; Joakim and Schneiker, 2019). The power shift has also been attributed to ideas and norms favouring market-based regulation (Kruck, 2014; Cutler, 2010). Cukier et at (2003) argues that public policing is a fundamental part of democratic governance and, consequently, we should protect it from encroachment. Where private security is feasible and justified, it should be regulated to minimize the contradictions and distinctions between public and private policing (Cukier et al, 2003). The Montreux Document encourages states to implement tighter regulation schemes regarding the training and monitoring of PMSCs in armed conflict zones (Diphoorn, 2016)[6]. While public police are subject to a wide range of regulations, those governing private security are fragmented and inconsistent (Cukier et al, 2003). This paper therefore examines the state of regulations in the three countries.

Daumann (2022) sought to highlight the power of dynamics brought by multistakeholder initiative (MSI). He posited that MSI empower PSCs by diverting attention and energy from intrusive kind of regulation, constituting them as legitimate governors and muting critics of the industry. The privatisation of security is driven by neoliberal agenda towards privatization, de-regulation, and cutbacks in the public sphere. This includes international trade agreements, like the General Agreement on Trade in Services (GATS) through the World Trade Organization (WTO) (Cukier et al, 2003).

Whereas these PSCs are bridging the much-needed gap in security, privatization of security poses a serious threat to the state by slowly eroding the state's legitimate monopoly on the use, control and authorisation of force (Weirs, 2018; Ortiz, 2010). State can lose its power over its territory by ceding its core function (Abrahamsen and Williams, 2006; Diphoorn, 2016). It can also undermine democracies (Bures (2015). Privatisation raises concerns about the behaviour of such fighters towards enemies, civilians and neutrals as seen through the lens of international humanitarian law (Weirs, 2018). Other concerns raised regards to ability of state to *control* the private actors' operations and the relationship between the PSCs, their customers and the society (Holmqvist, 2005:26). The PSCs are responsible to their shareholders, and not voters, yet they carry a critical role in protection, previously a preserve of the state (Diphoorn, 2016). Context is significant since the ultimate consumer of PSCs service goes beyond the contract holder to local populations and traverses international borders, a complex and multifaceted issue (Avant, 2004:7)

PSCs' role in international missions may imply a break from the Article 2 of the UN Charter in this context: that member states take responsibility, under UN Authority, for maintenance of peace and security. Similarly, anti-mercenary provisions in several state laws, for instance, Tanzania's Constitution prohibits such activities under Article 147(1): "…it is hereby prohibited for any person or any organisation or any group of persons except the Government to raise or maintain in Tanzania an armed force of any kind". This raises legitimacy concerns and sets ground for a debate to determine and outline appropriate ethical, political, professional and public accountability standards that PSCs need to uphold in order to be a legitimate resource (Krahmann, 2017). Daumann (2022) argues that the United States and the United Kingdom have used the Swiss Initiative to side-line the UN Draft Convention process and pursued privatization-friendly agenda with like-minded states.

7. Regulating PSCs in South Africa, Kenya and Tanzania

7.1 State-led Regulation

What is common in state-led regulation in the three countries is the multi-agency approach. The PSCs are subject to various compliance requirements from different ministries, state departments, agencies and their designated regulator. As indicated before, South Africa and Kenya have specific law and regulator for the industry, while Tanzania's industry is still regulated under the Auxiliary Police Act, which lacks specifics about PSCs as it was designed for community policing. The Acts in Kenya and South Africa specifies the offences and corresponding punishment for each offence, something which is missing in Tanzania.

The labour law is a critical form of regulation as well. It sets the wages and employment standards for companies. In all the countries, the labour law is universal, covers the entire labour market. However, in Tanzania, the minimum wage in Mainland is sector-based and the minimum wage effective from January 2023 is TZS.148,000 for small companies and TZS.222,000 for large and international companies[7]. The new wage was a 48% increase from the previous wage, which has existed since July 2013, when it was also increased by 46.6%.

In Zanzibar[8] however, there is one minimum wage set in July 2016 (and increase of 100% from the previous TZS.150,000) for the entire labour market. However, a provision was made for small companies to apply for approval to the Minister so as to pay a lower minimum wage of TZS.180,000, and if granted, the license would be for 3 years, and one is required to reapply and demonstrate that they still meet the requirements as per criteria specified for small companies in the regulation. Even though the regulations applied to the entire labour market, most of the locally owned PSCs meet the requirements and hence able to charge significantly low prices in the market compared to their large or international counterparts. One director indicated that this created unlevel playing field, with local companies favoured in the market.

In Kenya, one minimum wage is applicable to the entire labour industry, and it was announced in July 2022, at 12% increase. The minimum wage in Kenya takes consideration of the areas of work, categorizing large cities, towns and other areas separately. It is therefore common to see PSCs giving different prices for different geographical areas of operation, given that their prices are informed by these set minimum wages, which is reviewed annually.

The minimum wage in South Africa is set under the National Minimum Wage Act No.9 of 2018. The Employment Conditions Commission usually makes recommendations to the Employment and Labour Minister, having input from the National Bargaining Forum[9]. For PSCs, it is based on the Private Security Sectoral Determination which prescribes minimum wages, number of leave days, working hours and termination rules. The wage is based per hour and categorises employees in sectors. The minimum wage only exempts three categories of workers: domestic workers, farm workers and expanded public works. It segregates the geographical areas into three, with Areas 1 and 2, mainly metropolitan areas, observing similar wage as these has a list of potential areas, with Area 3 observing a lower minimum wage. The wage is given for different types of workers, for instance in security, it follows categories of registration as per the PSIRA, hence Security/safety Inspector has categories A, B, C, D, and E. Control Centre Operator has similar categorization and hence respective minimum wage. Clerks are categorized per years of experience. Drivers are categorized per the type of vehicle they are licensed to drive. The wages are valid for one year, and the rates applicable were set in March 1, 2022, which increased the wage from ZAR.21.69 to ZAR 23.19 per hour[10]. Security guards however earn an average of ZAR 64 per hour. Clerical Assistants earn ZAR 4,486 (about USD.300) and Artisans in Area 1 and 2 earn ZAR 8,611 (about USD 575) per month.

South Africa appear to have a more structured way of entry to the private security industry compared to Kenya and Tanzania. For security officers, they are required to undergo training with a provider that is registered with Safety and Security Sector Education and Training Authority (SASSETA). Security guards are graded from A to E, based on their duties and level of responsibility[11]. They undergo separate training for each grade. Grade A has categories like site manager, commander, managing workforce, basic investigation, problem solving, designing security solution, conducting risk assessment and evaluation on site daily. Grade B has access control, shift commander, managing lower grade security officers and site inspection. Grade C has access control for high-risk areas and managing lower grade security officers. Grades D & E has access control. Once an officer completes the studies, he will need to register with PSIRA before offering those services, with a once off registration fee of ZAR 160 and annual fee of ZAR 84[12].

PSIRA provides a broad scope of regulation and defines security service provider as “a person who renders security services to another for a remuneration, reward, fee, or benefit and includes such a person who is not registered as required in terms of this Act”. This is broad and deliberate to ensure that anyone engaging in security services falls into the bracken and be subjected to the law, which provides for several sanctions for non-compliance. An amendment to the Act in 2013 saw inclusion of a clause to limit foreign ownership a South African registered PSC to 49%.

What is unique in South Africa and Kenya is the consumer liability clause, which states that any person who knowingly or without the exercise of reasonable care contracts security services and provision that are contrary to the Act is guilty of an offense. In effect, consumers are "legally obliged to ensure that the companies they are using are registered and operate according to the Act (Diphoorn, 2016). There are no such barriers in Tanzania. Despite South Africa's advanced structure of the industry, enforcement appears to be a challenge. PSIRA is viewed by actors in the industry as understaffed, under resourced and inefficient if its operations, with corruption and favouritism allegations (Diphoorn, 2016). In addition to PSIRA, PSCs are still subjected to many other specific laws, like Firearms Control Act of 2000, Companies and Intellectual Property Commission, Regulation of Foreign Military Assistance Act of 1998, the Prohibition of Mercenary Activities of 2006 and the Regulation of Certain Activities in Country of Armed Conflict of 2006.

Kenya passed the Private Security Regulations Act in 2016, which established PSRA. Actors indicate that it was dormant for years and appears to have become active in 2022, with registration of existing companies. Due to inadequate due diligence, many PSCs were left out of the gazetted list, and many have taken the regulator to court. They fear that being excluded in the list means that customers will terminate existing contracts with them to avoid facing sanctions of engaging unregistered PSC. In addition to PSRA requirements, which sets registration, training and general conduct of PSCs and officers, PSCs are still required to observe all laws and regulations for businesses in the country.

Unlike in South Africa and Kenya, Tanzania has no independent regulatory body, and instead, private security fall under TPF. A private Bill was drafted in 2015 to establish a system that would resemble what Kenya and South Africa have, but it is yet to complete the lengthy consultation process given that national security is a Union matter and since Zanzibar has unique requirements, the House of Representatives, the Zanzibar's legislative organ, is yet to pass it. Zanzibar, for instance, does not allow use of firearms by individuals, other than those working with state security organs (interview, Dar es Salaam, February 6, 2023). Other sentiments from the industry indicate that the draft appeared to create a parallel system of police, yet the TPF are comfortable 'regulating' private security industry under the present set up. Some directors of the PSCs also have fears that the new regulator may just add a burden to the cost of doing business without resultant benefits, while others feel that it will bring a new dawn in the sector and weed out 'briefcase companies'. Some directors felt that 'it is better the devil you know than the angel you don't', preferring the loose regulation by the TPF for now. They feel that even if a new regulator takes over, it will not eliminate the role TPF plays, especially regarding firearms licenses and training. It will therefore be an additional burden rather than providing solutions (Interview, Dar es Salaam, February 2, 2023).

A review of the regulation in Tanzania shows that other than instructions given on the letter of permission to operation, there are no other specific written instructions or regulations available for the sector. This leaves the actors to resort to internal standard operating procedures to manage their operations. However, the companies are registered under Business Registration and Licensing Authority (BRELA), under the Companies Act. The wages are regulated under the Ministry of Labour, and specific minimum wage for the sector is set, under the Labour Institutions Act. Taxes and levies are governed by specific Acts of parliament. The general business laws in the country therefore serve as effective mechanisms to regulate the PSCs. This shows that there is little barriers to entry in to the security business, as there are no specific training requirements or demonstration of capacity to deliver before entry. There is no standard procedure for doing background checks, both for companies and security officers. PSCs with self-regulation from international standards or under a push from customers, have internal mechanisms, which are varied.

7.2 Self-Regulation

In South Africa, there are many trade associations – at least thirty-eight (Shearing and Berg, 2006). Formed in 1965, Security Association of South Africa (SASA) is the oldest, formed before any state regulation began. Attempts to form an umbrella body have not succeeded, given that splinter groups occur. The South African Security Federation was formed in 1986, with 15 different associations, but in 2003, Security Industry Alliance (SIA) was established, a parallel umbrella body, which has further hampered coordination and fuelled rivalry in the industry. Strong associations, like South African Intruder Detection Services Association (SAIDSA) have by-laws and directives, though not legally enforceable, but members can be 'kicked out' (Diphoorn, 2016). The sector initiatives are seen to be effective, given that PSIRA has weaknesses like relying on criminal checks which only captures recorded crimes, and only done on registration, while actors prefer continuous checks. Criminal database was deemed illegal and against human rights by the government, but the industry felt it was the only way out to rid themselves from criminals.

In Kenya, trade associations are two: Kenya Security Industry Association (KSIA) and the Protective Services Industry Association (PSIA). They are rivals and members of KSIA are mainly A-Brands while PSIA are B-Brands, which were unable to meet the stringent requirements set by KSIA, hence set a splinter group (Interview, Nairobi, January 24, 2023). They rivalry play out in the market, even though the same members have additional organs they serve together. They however take different stances on issues, especially those brought by the regulator during consultation process. KSIA has regulations which members sign to adhere to and pay annual membership fee to maintain the status. They have further enhanced their value to members by setting a 'blacklist', of former employees who misbehaved. Members indicate that even though it used to be active, some members are not sharing such information but concur that it was helping the members avoid 'bad apples' in the industry. Plans were underway to set the same for customers, given that the industry was reeling with debts and the customers kept switching the PSCs when they have accumulated debts.

Tanzania's TSIA is the oldest, but three other associations have since been established – UKUTA, TAPSCOA and TAMSACA - and resulted in industry rivalry. Members allude to the fact that none of the exiting associations have known by-laws or standards to bring the members to proper order in the conduct of their operations, and hence seen as 'social clubs' (interview, Dar es Salaam, February 2, 2023). Majority of the PSCs are not members of any of the existing trade associations, and there is no push to join any. Rarely do clients demand membership of association as a pre-requisite to participation in the tender.

7.3 Agency-level Regulation

Diphoorn (2016) argued that agency-level regulation is the most influential for security officers in their line of work. Surveillance activities by PSCs on guards include selection, vetting, recruitment, training and disciplinary processes. In addition to criminal checks, PSCs do panel interviews, aptitude tests, integrity checks, psychometric evaluation and even polygraph tests. From the interviews I conducted, it appears the level depends on the PSC and dictated by the resources they have. While South Africa have SASETTA as the regulator of training, Kenya and Tanzania do not have uniform training system and PSCs are left to train, without even a curriculum to follow. The criminal checks are not also mandatory in Tanzania and Kenya, though 'advisable' by the police. One director indicated that they all get clean results, no adverse report, even though they discover later through additional measure the person had crime record.

To motivate staff, some PSCs use reward and recognition systems, and promotion for good performance. Some large PSCs, with diverse portfolios, have schemes to elevate staff to critical departments upon meeting set criteria, demonstrating trust and clean record for a given number of years, and hence join departments like Cash-In-Transit, which is seen as sensitive and highly rewarding. This will encourage good behaviour and allegiance to the company.

PSCs with resources have additional measures like a 24-hr control centre to monitor their guards in the field, having supervisors to visit them periodically and use of electronic solutions like VHF radios and guard patrol systems. Many PSCs however do not bother to invest as these are not mandatory and only 'eat into their bottom-line'. Most PSCs who do this do it at the request of the customer, some of them pay for the additional oversight controls. (Interview, Dar es Salaam, February 6, 2023).

8. Conclusion and recommendations

The private security industry has grown to be dependable sector in the economies of the three countries. They suffer from similar challenges, including the pressure from unions, the several fees and taxes from the respective governments, and tight competition that is driving a race to the bottom. There is low barrier to entry into the industry, hence a significant number of unregistered and non-compliant players, often with low standards and engaging in undercutting and unethical business practices, giving the industry a bad name. For South Africa and Tanzania, where the PSCs are licensed to use firearms, the police are slow in processing the firearm competency certificate in case of South Africa and firearm license in case of Tanzania. Enforcement of controls and facilitative processes will help the sector.

About training, Kenya and Tanzania still do not have curriculum for security officers and anyone, it seems, can be a security officer as they require no registration. Whereas South Africa has mandatory training and certification, actors complain that it is too expensive, with key vetting like criminal checks taking months to complete and registration of new guards bureaucratic. Key other common challenge is corruption; the demand for bribes from clients to secure contracts or from other role players to secure licenses, permits and complete due processes. Despite existence of codes barring such unethical practices, it is survival for the fittest and PSCs do what they can to continue operating. Lastly, clients are not well informed on the required standards and even the possible sanctions for contracting non-compliant PSCs. Majority of the clients use price as key consideration in selecting a PSC, safe for a few, leaving a gap in the needed enforcement.

The state regulations are so many, uncoordinated and there seems to be a challenge across the three countries on weak enforcement. Actors are raising concern that the industry is over-regulated. Sector-specific regulations are largely driven by crisis and often reactive. Whereas South Africa and Kenya have specific regulatory authority, which is absent in Tanzania, actors in the industry seem to view it as an extra burden, given that it is funded by the industry, with little or no benefit to them. They feel that the regulatory body should be fully funded by the government, and relief the burden to the already suffering private security industry. In South Africa, even security guards are contributing annually to PSIRA, yet they are on minimum wage[13].

Self-regulation is an opportunity to 'sanitize' the industry, but given that joining trade association is voluntary, and enforcement of their standards is weak, it is not effective. The proliferation of trade associations is also weakening the sector, as trade unions concentrate on rivalry. This is common in the three countries. Agency-level regulation are actively pursued by PSCs to mitigate internal risks and ensure delivery of services. However, the level varies a lot, depending on the PSC motivation, the push from the customers and the resources within the PSC.

South Africa appears to have a better coordinated, efficient regulation the two because the private security industry is more organized. Kenya has taken the right track, given the recent moves by PSRA and active trade associations. Tanzania still has a lot to do to bring the industry to order and reap full benefits it offers. Periodic license, with preconditions to be met before renewal is the right move. TPF can however do better to tap the opportunity presented by trade associations to streamline the sector. This will be in line with the Multi-stakeholder Initiative, fronted by Avant (2016) and Daumann (2022).

9. References

1. Abrahamsen R and Williams M (2011) Security Beyond the State: Private Security in International Politics. Cambridge, UK: Cambridge University Press.
2. Avant, D. D. (2016). Pragmatic networks and transnational governance of private military and security services. *International Studies Quarterly,* 60(2), 330-342.
3. Azoth Analytics (2021) Global Security Services Market (2021 Edition) - Analysis By Services Type (Manned Guarding, Alarm Monitoring, Cash Logistics, Others), End User, By Region, By Country: Market Insights and Forecast with Impact of COVID-19(2021-2026). https://www.researchandmarkets.com/reports/5465015.
4. Berg J (2003) The Private Security Industry in South Africa: A Review of Applicable Legislation. *South African Journal of Criminal Justice* 16:178-96.
5. Bures O (2016) Private Security Companies. Transforming Politics and Security in the Czech Republic. 3. 123-126. 10.3224/eris.v3i1.12.
6. CIA (2023) The World Fact Book. https://www.cia.gov/the-world-factbook/countries/tanzania/.
7. Crawford A (2006) Networked Governance and the Post-Regulatory State? Steering, Rowing and Anchoring the Provision of Policing and Security. *Theoretical Criminology* 4(1): 109-28.

8. Cukier, W., Quigley, T., Susla, J., (2003) Canadian regulation of private security in an international perspective, *International Journal of the Sociology of Law*, Vol.31:3, pp. 239-265, ISSN 0194-6595, https://doi.org/10.1016/j.ijsl.2003.09.004.
9. Cutler, C. (2010). The legitimacy of private transnational governance: Experts and the transnational market for force. *Socio-Economic Review*, *8*(1), 157–185. https://doi.org/10.1093/ser/mwp027.
10. Daumann F (2022) Potential Negative Externalities of Private Military Entrepreneurs from an Economic Perspective. *Defence and Peace Economics* 0:0, pages 1-21. https://doi.org/10.1080/10242694.2022.2126213.
11. Diphoorn T (2016). "Surveillance of the Surveillers: Regulation of the Private Security Industry in South Africa and Kenya". *African Studies Review*, 59(02), 161-182. doi: 10.1017/asr.2016.31.
12. Franke V & Von Boemcken M (2011). Guns for hire: Motivations and attitudes of private security contractors. Armed Forces & Society, 37(4), 725-742.
13. Gumedze S (2020). Baseline Study on Private Security Regulation in the Southern Africa Region. Geneva: Geneva Centre for Security Sector Governance.
14. Holmqvist C (2005) Private Security Companies: the case for regulation. SIPRI Policy Paper No.9, Stockholm Institute for Peace Research, Stockholm.
15. Jaba S T (2020) Privatised Policing Duties in a Constitutional State: The Case Of Postcolonial Tanzania In Socio-Legal Context. PhD in Law Thesis, University of Warwick. Available at http://wrap.warwick.ac.uk/159373.
16. Joachim J & Schneiker A (2012). New humanitarians? Frame appropriation through private military and security companies. Millennium, 40(2), 365-388.
17. Krahmann E (2016). Choice, voice and exit: consumer power and the self-regulation of the private security industry. *European Journal of International Relations*, 1(1), 27-48. doi: 10.1017/eis.2015.6.
18. Krahmann E (2008). Security: Collective Good or Commodity?. *European Journal of International Relations,* 14(3), 379-404. doi: 10.1177/1354066108092304
19. Kruck A (2014). Theorising the use of private military and security companies: A synthetic perspective. *Journal of International Relations and Development*, *17*(1), 112–141. https://doi.org/10.1057/jird.2013.4.
20. Mkutu K and Kizito S (2007) Private Security Companies in Kenya and Dilemmas for Security. *Journal for Contemporary African Studies* 25(3):391-416.
21. O'Connor D, Lippert R, Greenfield K, & Boyle P (2004). After the "quiet revolution": The self-regulation of Ontario contract security agencies. *Policing and Society*, *14*(2), 138-157.
22. Ortiz C (2010). Private armed forces and global security: a guide to the issues, Santa Barbara, CA: Praeger.
23. Percy S (2012). Regulating the private security industry: A story of regulating the last war. *International Review of the Red Cross*, *94*(887), 941–960. https://doi.org/10.1017/S1816383113000258.
24. Prem B (2020). *Private Military and Security Companies as global governors: From Barricades to boardrooms*. Routledge.
25. Private Security Industry Regulatory Authority (PSIRA) (2020) *Annual Report 2018/2019*. Pretoria: South Africa. http://www.psira.co.za/psira/dmdocuments/PSIRA%20APP%202018%20WEB.pdf.
26. UNESCO (2022) World Peace Index 2021. https://www.unesco.org/en/world-media-trends/global-peace-index.
27. United Nations Office on Drugs and Crime (UNODC). (2022) 2021 Global Study on Drugs and Crime, Homicide Trends, Contexts, Data. Vienna: UNODC. https://dataunodc.un.org/content/country-list.
28. Wairagu F, Kamenju J and Singo M (2004) Private Security in Kenya. Nairobi: Security Research and Information Centre (SRIC).
29. Weirs (2018), Global and Local Private Security Companies in Kenya: a balanced relationship? University of Glasgow, available at www.iiste.org/Journals/index.php/EJBM/article/viewFile/11758/12113.
30. White A (2011) The New Political Economy of Private Security. *Theoretical Criminology* 16(1): 85-101.

[1] The Global Peace Index (GPI) ranks 163 independent states and territories according to their level of peacefulness. It is the world's leading measure of global peacefulness and offers comprehensive data-driven analysis on trends in peace, its economic value, and how to develop peaceful societies.

[2] Updated crime statistics are available on police website: https://www.saps.gov.za/services/crimestats.php.

[3] PSIRA is a quasi-state body set under the Private Security Industry Regulation Act No.56 of 2011, and monitored by the Ministry of Police but funded by the industry itself through registration fee, monthly/annual fee, training fee etc. Details are available in it website www.psira.co.za This replaced the Security Officers Act of 1987 that had birthed the state regulation in South Africa.

[4] PSRA was set under the Private Security Regulation Act No.13 of 2016.

[5] TSIA is the oldest security industry trade association, having been formed in 1998, initially called Tanzania Association of Private Security Companies (TAPSCO). Other associations were formed, mostly by companies protesting some regulations passed or out of political infighting. This include Tanzania Manned-Guard Security Companies Association (TAMASCA) (registered in 2007), Tanzania Private Security Company Owners' Association (TAPSCOA) (registered in 2015) and Umoja wa Kampuni ya Ulinzi Tanzania (UKUTA), (registered in 2022). There were efforts by some players to form a confederation and have one voice, but many do not agree on the format and the discussion is ongoing.

[6]The Government of Switzerland and the International Committee of the Red Cross (ICRC) initiated a process that culminated into an intergovernmental agreement that promotes the adherence to the international humanitarian law and human rights for private security companies. The agreement was called 'The Montreux Document on the Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict". It was finalized on September 17, 2008 and available on www.icrc.org.

[7] This was passed via Minimum Wage Order No.687 of 2022, issued by the Minister of Labour on November 25, 2022. The new wage, a 48% increase, was set to the effective from January 2023.

[8] Zanzibar, even though part of Tanzania, has own legal structures safe for some few areas where they are specified as union. Labour is not a Union matter and as such, has its own labour laws. United Republic of Tanzania is a Union between Tanganyika (Mainland Tanzania) and Zanzibar (Unguja and Pemba Islands), created in 1964.

[9] Available on: https://www.gov.za/speeches/private-security-sector-minimum-wage-set-rise-%E2%80%93-department-labour-28-aug-2017-0000.

[10] See the public notice on https://www.gov.za/speeches/minister-thulas-nxesi-announces-2022-national-minimum-wage-increases-8-feb-2022-0000.

[11] Details on https://safacts.co.za/security-guard-salary-in-south-africa/.

[12] Statistics available on https://alrei.org/research/data-bases/minimum-wages/south-africa/6253-private-security-sector.

[13] Sentiments shared on https://pressportal.co.za/industry-and-real-estate/story/6101/challenges-in-the-south-african-private-security-industry.html.

INFO

Corresponding Author: Eric Sambu, Master of Business Administration, Master of Arts in a Revenue Law and Administration.

How to cite this article: Eric Sambu, Regulating Private Security Industry: Experience from South Africa, Kenya and Tanzania. *Asian. Jour. Social. Scie. Mgmt. Tech*. 2023; 5(6): 171-182.