



The **Ushalama**  
Reforms Forum



# **Baseline Study on the Private Security Industry in Kenya**

**CHALLENGES AND IMPLEMENTATION OF THE  
NEW REGULATORY FRAMEWORK**

Private Security  
Governance  
**Observatory**





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## List of Acronyms

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<b>CIT</b>	Cash in Transit
<b>CP</b>	Community Policing
<b>DCI</b>	Department of Criminal Investigation
<b>DCAF</b>	Geneva Centre for Security Sector Governance
<b>DFID</b>	Department for International Development
<b>FGD</b>	Focused Group Discussions
<b>G4S</b>	Group Four Security
<b>GJLOS</b>	Governance, Justice, Law and Order Sector
<b>GOK</b>	Government of Kenya
<b>ICTJ</b>	International Centre for Transitional Justice
<b>IPOA</b>	Independent Policing Oversight Authority
<b>KHRC</b>	Kenya Human Rights Commission
<b>KII</b>	Key Informant Interview
<b>KNPSWU</b>	Kenya National Private Security Workers Union
<b>KSIA</b>	Kenya Security Industry Association
<b>NCRC</b>	National Crime Research Centre
<b>NHIF</b>	National Hospital Insurance Fund
<b>NIS</b>	National Intelligence Service
<b>NITA</b>	National Industrial Training Authority
<b>NPS</b>	National Police Service
<b>NSAC</b>	National Security Advisory Council
<b>NSSF</b>	National Social Security Fund

<b>KEPSA</b>	Kenya Private Sector Alliance
<b>PfPS</b>	Partnership for Peace & Security
<b>PSCs</b>	Private Security Companies
<b>PSIA</b>	Protective Services Industry Association
<b>PSRA</b>	Private Security Regulation Authority
<b>PSS</b>	Private Security Services
<b>PSTF</b>	Private Security Task Force
<b>SPSS</b>	Statistical Package for Social Sciences
<b>TVETA</b>	Technical and Vocational Education and Training Authority
<b>UNCCPCJ</b>	United Nations Commission on Crime Prevention and Criminal Justice
<b>Usalama</b>	Usalama Reforms Forum

## Acknowledgements

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The Usalama Reforms Forum would like to acknowledge and sincerely thank everyone who took part in the baseline study on the private security industry in Kenya for their valuable contributions. We would like to thank the Usalama Advisory Board and the Secretariat for providing overall leadership and strategic direction during the study.

Usalama Reforms Forum would like to give special thanks to the Geneva Centre for Security Sector Governance (DCAF) for the financial support and technical input throughout the period of the baseline study. Special tribute to Mr. George Kabonga for his role in conducting interviews and compiling the baseline study report.

We sincerely thank Usalama team comprising of Jacob Atiang, Caleb Wanga, Morris Muli and Rev. Jami Sasaka for specific roles they played in development and design of research tools and methodology, providing logistical support and coordination of the baseline study. Special mention to a team of field researchers for their commitment to quality work and timely completion of assignment even in difficult circumstances experienced during the study period. We are sincerely grateful and indebted to all of you.

## Disclaimer

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The contents of this publication may be freely used and copied for educational and other non-commercial purposes, provided that the Study is duly cited as a source. The opinions expressed in this publication are those of the author(s) and in no way reflect the position of the institutions mentioned or cited as examples in this report.

The good practices and recommendations included in this Study are not prescriptive. It is up to each user to determine, where appropriate, their feasibility, usefulness and suitability depending on the local context in each specific situation on the ground. The Observatory and the authors of this Study disclaim any responsibility for any loss or damage of any kind to anyone who has used this Study or to any third party as a result of using the information in this document.

## About Usalama

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Usalama Reforms Forum is a Civil Society Organization (CSO) working in the areas of policy research, security sector reforms with a bias on police reforms; private security governance, crime prevention and implementing community safety models. Previously, Usalama led civil society organizations in shaping security sector reform agenda in Kenya and continues to play a critical role in this endeavour.

Over the years, Usalama has built strategic partnerships with the National Police Service Commission, the National Police Service (NPS), the Independent Policing Oversight Authority (IPOA); the Geneva Centre for Security Sector Governance (DCAF), Fight for Peace International and Private Security Providers in Kenya among others.

In partnership with the NPS, Usalama commissioned a study in 2012 on the state of police stations and the criminal justice system in Kenya. The study was published into a report titled “Communities and their Police Station” that provided a critical insight on the capacity of police stations to provide services. As part of its unique innovative approaches to programming, Usalama developed and has implemented a “Community Safety Model” across the country as a unique approach to people centred policing.

Currently, Usalama is leading discussions on building a standard private security framework for Africa and is a member of the African Private Security Governance Observatory, the African Coalition for Corporate Accountability (ACCA), Outstanding Police Service Awards steering Committee and Police Reforms Working Group in Kenya among others.

## About the African Private Security Governance Observatory

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The African Private Security Governance Observatory (hereafter, the Observatory) is a network of African CSOs that seek to share knowledge and reinforce their organizational capacity to promote good governance of the private sector.

By raising awareness among CSO members, the Observatory aims to foster the exchange of ideas, experiences, information and good practices. Through its online platform, the Observatory provides tailor-made tools to support the role of CSOs in the oversight and accountability of the private security sector.

This Baseline Study on the Private Security Industry in Kenya (hereafter, the Study) has been developed in the framework and with the support of the Observatory.

## Preface

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In response to a complex contemporary security environment, public security forces and an ever-expanding private security industry need be effective, well-managed and – fundamentally – to be situated within a framework of democratic oversight and accountability. However, in many African contexts stakeholders from government, the industry and civil society operate in silos. As a result, private security governance frameworks have not evolved to respond to pressing needs such as citizen insecurity, critical infrastructure protection and the threat posed by terrorism.

Dialogue and mutual-learning are key goals of the *African Private Security Governance Observatory*. This Africa-wide initiative constitutes a powerful network that empowers civil society organisations (CSOs) to contribute to national efforts to improve oversight and accountability of the private security industry. The Observatory also seeks to build bridges between national action and efforts at regional, continental and international levels to support good private security governance.

The Baseline Study on the Private Security Industry in Kenya developed by the Usalama Reforms Forum is the first in a series of such studies commissioned by the Observatory that will showcase analysis of private security governance dynamics in different national settings. Creating such an evidence base should catalyse innovative thinking and generate new policy options. In this respect, I would like to commend colleagues at the Usalama Reforms Forum for their excellent work in developing this study. The analysis and findings can make a significant contribution to efforts at the national level to improve private security governance in Kenya. Specifically, the study identifies

important recommendations that can help to ensure full implementation of Kenya's 2016 Private Security Regulation Act.

The Geneva Centre for Security Sector Governance (DCAF) is strongly committed to fostering good private security governance as part of our mandate to supporting security sector governance and reform around the globe. The African Private Security Governance Observatory, which we have supported since its inception, underlines a core principle of our engagement: no single actor can succeed alone, multistakeholder partnerships are vital. DCAF is strongly committed to supporting States, the private sector and civil society to work together to improve security for states and people, to enable development and to safeguard human rights.

Dr. Alan Bryden

Assistant Director

DCAF



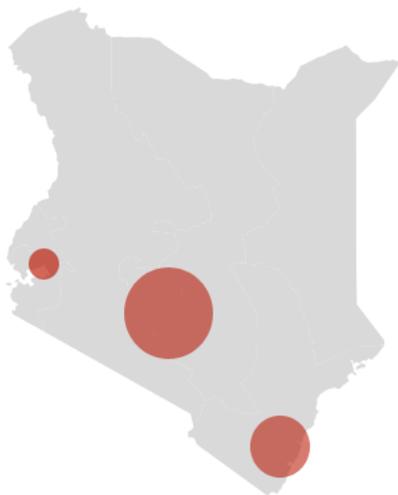


# Introduction

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For a long period of time (last three decades), private security providers have operated without proper laws regulating the conduct of their business in the country. As a result, a number of human rights violations, poor workers' welfare and governance challenges have been experienced in the sector, amongst other challenges. The emergence of terrorist activities within the region, targeting government installations, private business and public places has further complicated the security situation, creating new needs for private security services.

In addition, the existence and growth of the extractive industry within the region has been the source of further challenges linked to private security. The discovery in the last ten years of oil resources in parts of Kenya has shifted the focus of the role of the private security industry and investment interests within the country, creating new needs and increased demands for private security services. This growth and important changes in the private security sector have nevertheless happened without a wide public awareness and monitoring: this lack of knowledge on the national private security sector is the incentive for the undertaking of Baseline Study on the Private Security Industry in Kenya.

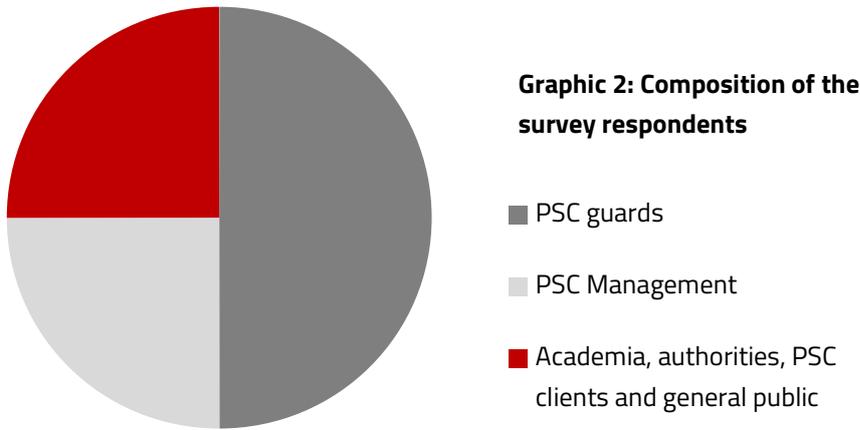


**Graphic 1: Repartition of PSCs in Kenya**

The demand of private security services in Kenya is congregating in the bigger cities in Kenya: 53% of the demand is from Nairobi, 23% from Mombasa and 10% Kisumu.

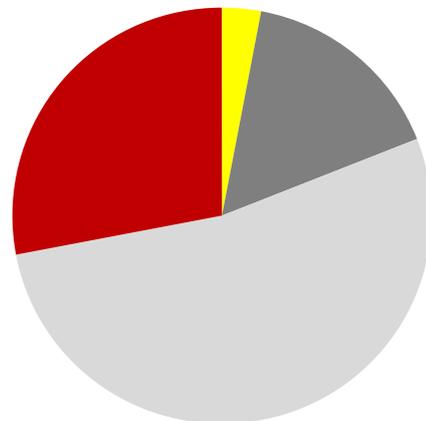
The Study provides accurate and in-depth information on the role of the private security industry in Kenya, and it explores the challenges experienced around its activities and the implementation the 2016 Act. The Study was undertaken in the cities of Nairobi, Mombasa and Kisumu, since close to 90% of the PSCs operating in the country are concentrated in those three cities.

Quantitative data were collected using a questionnaire-based survey (hereafter the survey). A total of 340 questionnaires were sent, and 311 questionnaires were received back fully completed, making a response rate of 91.5 per cent. 50% of the survey respondents were PSC guards, while 25% were members of the management. The remaining 25% of the survey respondents were academics, authorities, members of the public and clients of PSCs. A majority of the survey respondents (68%) was male, whereas only 32% indicated to be female.



**Graphic 3: Average education of the survey respondents**

- No formal education
- Primary education
- Secondary education
- Higher education



A majority of the survey respondents (38.3%) were aged between 26 and 35 years, 35.1% were aged 36 to 45 years, 18.3% were aged between 18 to 25 years and only 8.3% of the survey respondents were aged 46 years and above. On the component of the educational level, 53% of the survey respondents had acquired secondary level of education, while 28% indicated that they had acquired college, university or post graduate level of education.

Additionally, interviews were conducted with key informants with specific knowledge on the private security sector. Those key informants included actors such as the Kenya Human Rights Commission (KHRC), the Independent Policing Oversight Authority (IPOA), the International Centre for Transitional Justice (ICTJ), the Private Security Regulation Authority (PSRA), Kenya National Private Security Workers Union (KNPSWU), Kenya Security Industry Association (KSIA) or the Protective Services Industry Association (PSIA).

Finally, ten Focus Group Discussions (FGD) were conducted to deepen the information obtained in the survey and interviews with workers of private security industry and members of the public in each of the selected cities. Two FGD were held in Kisumu, six in Nairobi and two in Mombasa.

## Objectives of the Study

The overall goal of the Study is to contribute to understanding the challenges of the private security sector in Kenya and to identify entry points toward better governance of the industry. The Study also seeks to inform and sensitise wider audiences and supports lesson learning and prioritisation with the Observatory. The specific objectives of the study are to:

- Provide an in-depth analysis of the private security industry in Kenya and an improved understanding of its challenges;
- Identify the gaps and challenges to the implementation of the 2016 Act and analyse wider existing challenges and opportunities in the Kenyan private security industry;
- Identify opportunities for all stakeholders to work together to develop an improved oversight and accountability of the sector; in particular, entry points for civil society advocacy and monitoring will be identified to contribute to accountability mechanisms at national, regional and international levels;
- Develop recommendations for improving private security effectiveness in service delivery and building of a deeper understanding and engagement with relevant stakeholders, including CSOs in Kenya. The generated recommendations will also aim to engage all relevant stakeholders in better governance and regulation of the private security industry.



# Chapter 1: National context and key characteristics of the private security sector

Around the globe, individuals, communities, local businesses, government agencies, large corporations and powerful militaries are increasingly outsourcing aspects of their security to private entities. PSCs are legally registered business entities that provide, on a contractual basis, security and/or military services, regardless of whether they operate in situations of conflict.<sup>1</sup> Private security is essential to ensure the security and safety of persons and property, as well as intellectual property and sensitive corporate information.<sup>2</sup>

Due to the waning ability of the State to provide protection for its citizens, people have reorganised themselves in many ways to maximise their own safety: this has led to the growth of the private security services demand in the country, as well as the formation of various other forms of security provision, such as neighbourhood watches and the use of vigilante groups.

Private security is one of the fastest growing service industries in Kenya. It is spread across the country, covering both the urban and the rural settings and encompassing a wide range of services. The Task Force on Police reforms led by Retired Justice Philip Ransley, GOK (2009) noted that private security is a significant player in Kenya's security sector and that it contributes to policing broadly defined, specializing mainly in alarm response, cash carrying, guarding, investigation work, executive protection and security consulting. PSCs in Kenya provide a range of security services, which complement that of the State, notably the provision of security and patrol of private residential and institutional buildings (such as banks, hospitals, schools, markets/shopping outlets, transport terminals, etc.).<sup>3</sup>

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<sup>1</sup> Small Arms Survey 2012

<sup>2</sup> <https://www.ncjrs.gov/pdffiles1/bjs/grants/232781.pdf>, accessed on 21st July 2018

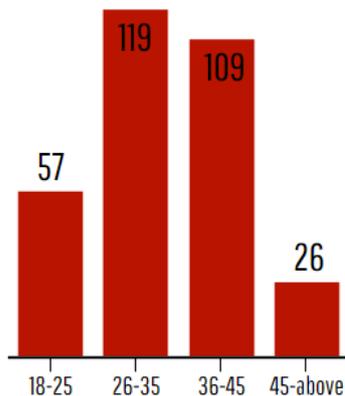
<sup>3</sup> Ancient Taitha Ndamu (2014), the Role of Private Security in community policing, a case of Kikuyu sub- county, Kiambu county, Kenya – a thesis

Interestingly, the answers from the baseline survey as well as the KII and FGD showed different opinions regarding the public perception of private security in Kenya. Some explained that the public trust in PSCs is adequate, and that it explains why they entrust their safety and assets to them. Other respondents rather felt that public perception of private security is poor, and they associated this to the poor working conditions, and private security jobs being regarded as a ‘last resort’ option.

## Profile and Geographical distribution of private security providers

The industry has about 1,000 operating entities, offering a diversified range of services. It directly employs more than 500,000 people, with an estimated annual turnover of over Sh300 billion. The private security industry is ubiquitous and provides, in many cases, the first line of policing for industry, business and individuals<sup>4</sup>. In addition, there would be over 300,000 people employed at the informal level according to Mr. Andabwa, the Secretary General of the KNPSWU.

One of the most reliable studies to date<sup>5</sup> notes that the private security sector provides employment to many Kenyans, with 48% of its work force comprised of young school leavers aged between 15-30 years, while other employees had been laid-off during Kenya’s privatisation and the structural adjustment programs.



**Graphic 4: Average age of the survey respondents**

Out of the 311 answers received, a majority of the survey respondents were aged between 26-35 years (119 survey respondents, 38.3%).

109 survey respondents (35.1%) were aged 36 - 45 years.

57 survey respondents (18.3%) were aged between 18 - 25 years and only 26 (8.3%) were aged 46 years and above.

<sup>4</sup> <https://www.standardmedia.co.ke/article/2001294543/new-private-security-regulations-good-for-industry-transformation>

<sup>5</sup> Wairagu, et.al (2004)

These age statistics tallies with the survey findings as illustrated in the chart above.

The private security industry in Kenya is composed of several big multinational companies as well as smaller, locally incorporated companies. The large multinational PSCs control a large share of the market, and they offer comparatively higher service standards than the smaller, locally incorporated companies. Competition is high among the companies and standards are generally low due to lack of professionalism in the management of the industry.<sup>6</sup>

Various markets, including critical infrastructure, commercial, institutional, industrial and manufacturing plants, warehouses, retail shopping centres, residential gated communities, diplomatic corps, hospitals, as well as private individuals employ private security companies. PSCs also provide guarding and courier services at government buildings and institutions. Those governmental institutions often usually have specific provisions on awarding contracts in place, including, among other, due diligence, vetting and certificate of good conduct, customer care training and physical fitness requirement.

In terms of services, PSCs provide a variety of services, including, among other, guarding, visitor control, fire control, cash in transit, security surveillance around the clock, close personal protection, intelligence gathering, installation of electric fences and alarm systems, or dog handling. Economic growth has also come with additional demands on PSCs. Many large companies also offer increasingly specialised services, such as cash transport or dog handling services, to have a competitive edge in the market. KII and FGD participants all explained that the demand for PSC services is huge because of rising security concerns from citizens, including emerging terrorism in the community.

## Historic development

The main expansion of the private security sector can be dated to the late 1980s and early 1990s, influenced by several factors. At this period, the country was experiencing a declining economic prosperity, resulting in a drastic reduction of State expenditure and investment, in line with the international donor requirements for economic liberalisation and structural adjustment. At the same time, Kenya has been experiencing an increase in criminal activities. An increased fear of terrorist threats also translated into an increased demand for private security service. These demands were

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<sup>6</sup> Wairagu, et.al (2004)

particularly high among international clients, with Nairobi being home to a number of international organisations and national embassies, including the second largest US embassy on the African continent. Nairobi is also the regional headquarter for the United Nations, and taken together international clients provide a substantial and particularly lucrative market for private security companies.<sup>7</sup>

In 2014, the national private security sector was left unregulated: there was no government body charged with its regulation, nor any policy framework setting out the rules of conduct to govern the sector or the operating principles defining the industry's relation with other government and non-government institutions<sup>8</sup>. Private security was therefore mainly self-regulated and, as a result of this lack of defined legal framework, the standards in the industry were very low, with many of the private security companies flouting labour laws, mistreating their workers and paying little attention to work ethics and service standards with impunity.

As a consequence, the industry, despite having over 2,500 providers and employing about 500,000 Kenyans, was regarded for a long time as rogue industry, and was looked at with suspicion by State security agencies. The private security sector lacked of an effective monitoring framework as well as oversight and accountability mechanism. Cut-throat competition for clients also meant a near total lack of respect for ethics. It was also reported that some high level public officers with ties to the private security business used the influence of their offices for the allocation of tenders. Furthermore, contradiction between the official government policies and the practices in the award of tenders was reported. Private security services contracted through public tenders have been disclosed to be remunerated with very low rates, to show records of failure to pay in time and to lack consideration for adequate work conditions or training when hiring private security services.

## **The private security sector after the adoption of the 2016 Act**

This lack of regulation was acknowledged and addressed by the adoption of the hereafter the 2016 Act. The 2016 Act will be addressed in more detail in the next chapter.

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<sup>7</sup> Abrahamsen, et.al (2011)

<sup>8</sup> Wairagu, et.al (2004)

The Kenyan private security industry is, in 2019, bigger than the State security agency. Clients of the private security industry include a wide and diverse range of actors, such as industries, banks, government agencies, commercial farms, embassies, international organisations, NGOs, or refugee camps. The client base nevertheless remains in the hand of a relatively small market, as only a few segment of the population can afford it.

To respond to these demands, private security companies offer an array of services, ranging from electronic intruder alarm systems, radio alarm response, perimeter protection and access control, cash in transit and cash management, guard dogs, satellite tracking and in some cases, even fire and rescue services.

Although authorities as well as the industry actors first expressed some distrust towards participation of CSOs on private security matters, the relationship has evolved amongst the various actors in the past years, building trust and increasing opportunities for partnerships. Some form of cooperation between CSOs, the government and trade unions in Kenya have been reported in recent times.

In particular, these actors cooperated in the policies discussion and the development of the 2016 Act. As a broader part of the police reform working group, CSOs came together as a coalition to mobilise communities and make inputs for the law. CSOs working on private security issues in Kenya include, among other, Usalama Reforms Forum, International Justice Mission, Independent Medico-legal Unit and Kenya Human Rights Commission.

There are two member associations in the private security sector in Kenya, namely: KSIA<sup>9</sup> and PSIA<sup>10</sup>. KSIA has a membership of about 22 PSC. They are owned by all members of the association, and run by the elected Council. Only one association, KSIA, was initially created but it was seen to favour large companies, leading to the creation of a second association, PSIA, representing membership of smaller PSCs. KSIA focuses on guarding services, electronic alarm systems and cash in transit services. The KSIA council has set standards for the personnel, equipment, facilities systems and conducts integrity necessary to achieve effective and reliable security cover for its clients. During the KII with the Secretary General of KSIA, they claimed to inspect every system of every member to ensure standards are met before membership is granted and it regularly audits compliance. PSIA consists of 80 companies and is involved with handling and management of emergencies like fires, natural calamities

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<sup>9</sup> <https://www.ksia.co.ke/>

<sup>10</sup> <https://www.psiasecurity.com/>

with an aim of supporting the community and the government. They appreciate that security challenges are dynamic and hence are open to any company wanting to register with them as long as they offer security services.

Both KSIA and PSIA were formed with the aim of establishing and maintain quality standards and good practices in the industry; ensuring compliance with regulation; providing a central organisation for liaison with the government, police, emergency services and other organisations; and co-ordinating resources for commercial, professional and public education on security issues, technology and practice. In addition, these associations facilitate self-regulation and compliance of PSCs.

## Chapter 2: Legal and regulatory framework

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At the international and regional level, there are no specific treaties regulating private security. However, existing international voluntary multistakeholder initiatives provide applicable guidelines, standards and principles on private security services across the globe. Such initiatives include in particular the Montreux Document, the International Code of Conduct for Private Security Service Providers, the Voluntary Principles on Security and Human Rights and the UN Guiding Principles on Business and Human Rights.

At the national level, as seen in the previous chapter, the private security industry in Kenya before 2016 has not been well organised. It failed to follow the growth and development of the industry, leading to a global lack of professionalism and accountability.<sup>11</sup> In reaction to this situation, Kenya enacted the 2016 Act. The 2016 Act states in its objects that it is “An act of Parliament to provide for the regulation of the private security industry, to provide for a framework for cooperation with National Security Organs; and for connected purposes”. The coming into place of the 2016 Act, regulating operations of private security players is therefore a significant step in the right direction.

### Main characteristics of the 2016 Act

#### 1. Field of application

As stated in its Article 3, the 2016 Act provides regulation of the private security services industry in accordance with values and principles of the Kenyan Constitution and regulates:

- National or international PSCs operating in Kenya;
- Kenyan registered PSCs rendering private security services outside Kenya;

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<sup>11</sup> KII interviewee with the CEO of Seneca Security Services

- The framework for cooperation between the private service industry and the state agencies that deal with security.

The 2016 Act outlines a non-exhaustive list of private security services. Such services cover the installation of burglar alarms and other protective equipment, private investigations and consultancy, car tracking or surveillance as well as close-circuit television. They also cover the provision of guard dog services, security for cash in transit, access control installation, as well as locksmithing or any other service that may be determined as such by the Board in the future.

## 2. Definition of relations with public forces

The 2016 Act defines a duty to cooperate: whenever called upon by a national security organ, the Inspector General of the NPS or the Cabinet Secretary, a private security service provider has the duty to cooperate in the maintenance of law and order or in any other manner.<sup>12</sup>

Private security providers are also granted some limited powers by the 2016 Act: the power to arrest, the power to search and the power to record and temporarily withhold identification documents.<sup>13</sup> Nevertheless, it is clearly defined that those powers exclude police powers: "For the avoidance of doubt, nothing contained in this Part shall be construed as conferring upon a private security service provider, a security guard or a security officer the powers of a police officer or member of a disciplined service".<sup>14</sup>

## 3. Responsible authority

The 2016 Act establishes the PSRA whose composition is as follows:

- Stage 1. "A chairperson appointed by the president;
- Stage 2. The following members appointed by the Cabinet Secretary:
  - I. The Principal Secretary responsible for matters relating to internal security;
  - II. The Principal Secretary responsible for matters relating to finance;
  - III. The Principal Secretary responsible for matters relating to labour;
  - IV. A representative of the national police service;

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<sup>12</sup> Article 45 of the Act

<sup>13</sup> Article 46, 47 and 48 of the Act

<sup>14</sup> Article 50 of the Act

- V. A representative of the National Intelligence Service (NIS);
- VI. Two members of registered associations representing employee organisations elected in accordance with regulations prescribed by the Cabinet Secretary;
- VII. Two members of registered associations representing private security firms elected in accordance with regulations prescribed by the Cabinet Secretary;
- VIII. One member nominated by registered residents associations to represent the interests of residents; and
- IX. One member nominated by the Kenya Private Sector Alliance.”<sup>15</sup>

#### 4. Licensing and registration

Two types of private security services providers can be registered with the PSRA: individual and corporate private security providers.

For the purposes of registration, individual private security service provider includes:

- a. A security guard;
- b. A private security officer employed in a private security company;
- c. A private security provider.

According to the 2016 Act, a private security company shall not employ a private security service provider, a security guard or a trainer who is not registered under this 2016 Act.

#### 5. Authorisation and licensing procedure

**Procedure for the registration of an individual private security services provider:**

Requirements to obtain a private security services provider registration are as follows:

- To be citizen of Kenya or a person who is ordinarily resident in Kenya;
- To be over eighteen years of age;
- To hold at least a primary school certificate;
- To have attended training in security matters in an institution accredited by the authority;
- To submit a certificate of good conduct issued by the Directorate of Criminal Investigation;

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<sup>15</sup> Article 7 of the Act

- To produce a certificate of discharge and a certificate of clearance from such service where he or she previously served in any of the disciplined services;
- To have no criminal records.

If these requirements are met, the authority will issue a certificate of registration<sup>16</sup> (it is worthy to note that no time frame is specified for this issuance). The granted registration, however, may be subject to restrictions and conditions as may be specified in the certificate of registration.<sup>17</sup> The validity of such registration cannot exceed one year and must be renewed accordingly;<sup>18</sup> the renewal is subjected to the payment of the relevant fee and to proof that the applicant undertook mandatory minimum one-week training on security matters.<sup>19</sup>

#### **Procedure for the registration of a corporate private security services provider**

In applying for a registration to the Authority, a corporate private security services provider must comply with the following criteria:

- To be a company incorporated and established in Kenya;
- If a foreign company, to be registered whether as a limited liability company or a partnership in accordance with the laws of Kenya and has at least twenty five percent local shareholding;
- To have persons performing executive or management functions in respect of the security business who are registered as private security service providers under this Act; and
- To have been security-vetted and nothing adverse has been established.

Additionally, the license can be refused if:

- The licensee has had an order in bankruptcy made against him or her which remains undischarged;
- The licensee knowingly and willfully gave false information of a material nature in connection with its application for the grant or renewal of its license;

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<sup>16</sup> Article 24 of the Act

<sup>17</sup> Article 25(b) of the Act

<sup>18</sup> Article 25(a) of the Act

<sup>19</sup> Article 26(2) of the Act

- The condition upon which the license was originally granted or renewed can no longer be fulfilled by the licensee; or
- The licensee is convicted of any offence under the 2016 Act or any offence and sentenced to a fine exceeding five hundred thousand shillings.

If the authority considers that some criteria are not met or that grounds of ineligibility arise, it will notify the PSC of the reasons of such refusal as well as the possibility to appeal.<sup>20</sup> However, if all the relevant criteria are met by the PSC, the authority will deliver a license within fourteen days of the date of registration.<sup>21</sup> The license may be subjected to any restrictions and conditions the authority may see fit to impose<sup>22</sup> and it will remain in force for a period not exceeding five years, having to be renewed annually.<sup>23</sup>

## 6. Provision related to personnel and its training

Workers' rights in Kenya are regulated by general laws, under the framework of the Constitution, protecting fundamental rights and freedoms of the individual, and underpinning a range of general labour rights. Regulation of wages is part of the Labour Institutions Act, and the government established basic minimum wages. The law limits the normal workweek to 52 hours. The 2016 Act does not contain specific provision related to personnel. However, one of the functions of the authority is to "provide and set standards that ensure compliance with the minimum wage regulations".<sup>24</sup> The authority can take various measures in the exercise of its functions.<sup>25</sup>

When it comes to training, the definition of standards and the accreditation of institutions offering training of security service providers and prospective security service providers to ensure a high quality of training is one of the functions of the authority.<sup>26</sup>

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<sup>20</sup> Article 30(3) of the Act

<sup>21</sup> Article 34 of the Act

<sup>22</sup> Article 31(b) of the Act

<sup>23</sup> Article 31(a) of the Act

<sup>24</sup> Article 9(q) of the Act

<sup>25</sup> Article 10 of the Act

<sup>26</sup> Article 9(j) of the Act

## 7. Weapons, firearms and equipment

The 2016 Act prohibits the use of firearms in any PSC service or operation.<sup>27</sup> Contravention to this provision can have consequently the cancellation of the license for the private security service provider, as well as bring liability on conviction to a penalty prescribed in the 2016 Act or any other written law.

When it comes to other equipment, the 2016 Act mentions in article 51(1) that a private security provider shall not:

- Use or allow the use of uniforms similar to any of the uniforms worn by any disciplined forces or any national security organ in Kenya;
- Brand its vehicles in similar colours with any disciplined force or national security organ in Kenya;
- Install communication tools or systems capable of interfering with a communication system used by any disciplined forces or national security organ in Kenya;
- Use the names, logos, initials and emblems similar or resembling those of a national security organ or a disciplined service;
- Use or install equipment that is capable of intercepting or otherwise interfering with another person's communication;
- Use or install such other equipment as the Cabinet Secretary may from time to time prescribe.

Generally, gun control in Kenya is regulated by the Firearms Act of 1954 and the Security Amendment Act of 2014. Private person can acquire firearms, but they must be licensed. License to be a gun owner includes, among other, to establish a genuine reason to possess a firearm and to pass a background check which considers criminal, mental health, and domestic violence records.<sup>28</sup>

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<sup>27</sup> Article 53(1) & (2) of the Act

<sup>28</sup> <https://www.gunpolicy.org/firearms/region/kenya>

## 8. Liability and sanctions

### **Criminal liability**

Kenyan Penal Code does not explicitly mention private security providers. However, PSCs as companies and their personnel as individuals are bound by the Penal Code.

### **Extraterritorial jurisdiction**

The Act establishes the regulation of private security services registered in Kenya rendered outside the national territory.<sup>29</sup>

### **Non-criminal liability**

The authority can pass resolutions to impose administrative sanctions on PSCs and individuals. PSCs might have to pay a fine not exceeding 500,000 shillings upon conviction of refusing to comply with a request of verification visits.<sup>30</sup> After inquiring into the alleged misconduct of any person the authority may take several actions as it may consider appropriate, such as cautioning or imposing on the person a fine of up to 200,000 shillings, suspending the certificates of operation or cancelling the registration.<sup>31</sup>

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<sup>29</sup> Article 3(c) of the Act

<sup>30</sup> Article 54(2) of the Act

<sup>31</sup> Article 55(10)(a), (b), (c), (d) and (e) of the Act



## Chapter 3: Challenges

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A range of challenges linked to the private security sector were identified through the analysis of the desk based research and the breakdown of the legal framework, put together and compared with the answers gathered through the survey and the KII and FCG. Those identified challenges are addressed hereafter, divided into eight categories:

- 1.** Respect for human rights
- 2.** Legal and regulatory framework
- 3.** Private security providers and the emerging security challenges
- 4.** Firearms Act and PSCs
- 5.** Private Security and Law Enforcement Agencies
- 6.** Training and capacity building
- 7.** Respect for workers' rights
- 8.** Private security and the extractive industry in Kenya

## 1. Respect for human rights

Around 19% of the respondents interviewed indicated that the level of human rights awareness has improved in recent times as compared to about three years ago. This improvement was attributed to the enhanced democratic space in the country and, among other, the involvement of CSOs in security governance. They cited the case of Nancy Baraza, a former Deputy Chief Justice who lost her high ranking-job in the Judiciary because of a scuffle with a female guard who was enforcing the law.<sup>32</sup> This case presented a classical example of respect for human rights as enshrined in the constitution, irrespective of one's status in society.

In the absence of strong oversight bodies and as non-state actors and consumers of their services, civil society has an important role to play in terms of mobilisation, sensitisation and lobbying the various stakeholders, advocating for improved private security governance.

If some saw some improved awareness on human rights in the sector, the survey also revealed that there exist cases of human rights violation linked to the operations of PSCs and their personnel. Specific mention was made of cases of sexual favors and exploitation at the work place, mainly targeting female workers.

It was also noted that basic training of PSC personnel (see Chapter 6) rarely address human rights nor takes into consideration international norms and good practices such as provided by the Montreux Document or the ICoC.

KII also showed that some individuals, institutions and organisations hire private security providers because they see them as a panacea for the entire security context. That is a common misconception, a dangerous underestimation of the security problems, and risk placing the private security personnel hired in high risk situations it might not be prepared for. Security personnel perform many essential functions, but guards are not the sole solution to every problem. The increased resort to private security also risks making security a good only at the reach of those who can afford it.

### **Main human rights related challenges are:**

- Violation of human rights *by* PSCs personnel;
- Violation of human rights *of* PSCs personnel;

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<sup>32</sup> <https://www.nation.co.ke/News/Deputy+CJ+denies+mall+gun+threat+/-/1056/1299980/-/3a3y8lz/-/index.html>

- Lack of adequate training on human right awareness;
- Lack of awareness by the public on the role played by private security;

## 2. Legal and regulatory framework

Survey respondents as well as KII interviewed and participants to the FGD had in most cases either little or no knowledge at all about the existence of the PSRA, including staff of well-established private security companies. Even though PSRA is relatively new (with only two years of existence), these statistics show that private security employees have a poor understanding of the framework in which their own sector functions.

With the implementation of the 2016 Act, there are a few gaps and challenges already. The difference between the notions 'private security provider' and 'private security firm' for example is not very clear. The 2016 Act's wording seems sometimes unclear and may not reflect the accurate situation, leaving room for interpretation, which potentially poses a challenge.

Compliance of the law in terms of registration of private security companies and regulation of operations within the industry is weak and needs to be strengthened. As an inheritance from the past weak level of registration, and due to regulation challenges in the sector, some of the private security companies have not complied with the new regulations. The presence of unregistered PSCs has weakened the industry further in dealing with the existing challenges.

Existence of non-registered PSCs – officially registered as operating companies, but effectively only used for other illegal activities such as money laundering– was reported. It was also mentioned to be a challenge that high profile politicians are associated with ownership of PSC. In some cases, politicians with links to PSCs would use their influence to fulfil their interest, for example in hindering implementation of legislation or regulations. Another problem mentioned was that PSCs could be used as sources of financing political campaigns and it was expressed that if PSCs were allowed to carry firearms in the future, rogue members would be used as 'political guns'.

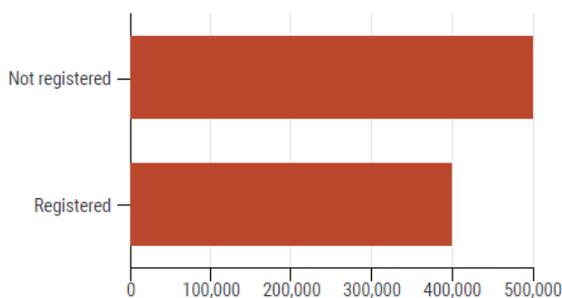
The KII and FGD participants who had interacted with the authority expressed scepticism about its composition: they felt some of the members lacked specific experience on private security matters. PSRA, as an institution, is still at its infancy with the CEO and a skeleton staff running the office.<sup>33</sup>

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<sup>33</sup> KII with SG of PSIA

Respondents also expressed fears of political influence in the hiring of the staff that will run the PSRA, as some politicians and senior government officers are also owners of PSCs. It was also claimed during KII that some politicians use PSCs employees for activities known to be outside their mandate, including in some cases against opponents, for example to collect rudimentary intelligence for them.

During interviews, discussions highlighted the opinion that PSRA does not have sufficient capacity to comply with its mandate the way it stands at the moment. It was nevertheless also stressed that the PSRA has the potential to be a great platform to influence positive change in the industry and that its input as a regulator will greatly influence the desired change.



**Graphic 5: Ration of registered private security providers**

Only 300.000 to 400.000 private security providers are registered, when around 500.000 private security providers would still operate without being registered.

Out of the registered PSCs, only a small part of private security providers are affiliated in a Union, although it is legal requirement.



Private security providers are part of associations, such as KSIA and PSIA, in which they are members for self-regulation. Nevertheless, what came out of the interviews is that there is, effectively, not a real effort made within these associations towards effective self-regulation. It mainly appeared that PSCs joined these organisations for the purpose of tendering for business. While it might not be a hard requirement, being member of one of these associations can be a considerable advantage in procurement processes. Particularly, in parts of the country which experience security challenges and

there might be fear from clients that PSCs could turn out to be of questionable origin, or to have ties with illegal organisations, membership to either of the associations offers a good reference.

**The main challenges regarding the legal and regulatory framework are:**

- Some gaps and challenges have appeared in the wording of the 2016 Act;
- Poor implementation of the 2016 Act. One of the biggest implementation challenges relates to the registration and licensing of companies and their staff: some PSCs have not fully complied with regulation requirements such as renewal of license. The lack of a personnel database and adequate vetting process also increases risks of recruiting inadequate employees;
- The process of putting in place the authority was seen by some stakeholders as not consultative enough, thus affecting the goodwill of some members of PSCs. The situation is however being addressed by the relevant authorities.
- The associations are functioning quite well but need to improve their influence in relation to self-regulation and other good practices within the sector.

### **3. Private security providers and the emerging security challenges**

To cope with emerging security challenges and increased insecurity, PSCs are making use of modern technology and acquiring more and new devices such as, for example, devices for enhanced screening, vehicle searches, search mirrors or metal detectors. Stronger partnerships and collaboration between private guards and the police are also developing, for example in the domain of information sharing, use of sniffer dogs or protection of specific public places such as schools or airports. Besides, some institutions such as schools have established informal information system – for example through good rapport with neighbors – who then act as informers to their security officers.

However, the formal regulation of Kenya's private security sector remained slow, and may not adequately take into consideration the fast evolution of an industry described as 'agile and innovative,

and [that] has responded swiftly to changing market pressures'.<sup>34</sup> Consequently, many aspects of PSCs operations remain a challenge for state regulations with implications on security.

The problem here is double sided: on the one hand, PSCs have difficulties accessing adequate equipment, especially when it comes to new and high tech equipment. This often results in PSCs being poorly equipped, and/or with material of lower quality that might not be reliable. On the other hand, the regulations do not take into consideration application of modern technology: there are no defined rules as to what is allowed or prohibited to use, nor on the minimal training required.

The surge of private security was also tied to the rising terror threats since the Westgate Mall attack in 2013 as well as the more recent hotel attack in January 2019. Business has been flourishing, as more companies and property owners decided to hire guards and use additional security technology as a consequence of the fear of terrorist attacks. As a result of the increased demand for PSC services, the number of guards has doubled in the last four years. According to the Director of the National Crime Research Centre, PSCs play a significant role in combating criminality in the country, as they allow the police to concentrate on other areas. PSC guards would act as an observatory; their simple physical presence keeping criminals away from the neighbourhoods they operate in. This also helps compensate for the insufficient number of public law enforcement agents in the country.

It was reported that some PSC employees have received short training courses developed by security companies to respond to emerging criminality. Nevertheless, such short training courses are not enough to capacitate PSC employees to deal with complex challenges. The survey respondents indicated doubt as to the role that private security can play in combating terrorism and, more broadly, organised crime, as they do not have appropriate training. Combating organised crime would require specific and technical skills. Additionally, it was also mentioned that there were cases where PSC employees are associated with organised crime, either directly as co-conspirators, or indirectly, by concealing information in the course of their duties. Private security guards are increasingly operating in dangerous environments an average of 50 private security guards lose their lives every year due to violent crimes, as noted by KNPSWU.

**The main challenges linked to emerging security concerns include:**

- Poor access to new technology applications (such as new equipment and high tech material);

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<sup>34</sup> Percy (2012, p. 941)

- Lack of adequate regulation in relation to the use of new technology;
- Insufficient training and means of PSC employees to face new security threats, terrorist threats and, globally, organised crime;
- Risks/ danger of rogue private security employees taking part – actively or passively – in criminal activities.

## 4. Firearms Act and PSCs

As seen in the previous chapter, the 2016 Act strictly prohibits the use of firearms in any PSC service or operation.

However, in practice, some licensed PSC firearm holders use firearms in their operations but in their individual private capacity. Clients requesting private security armed services as well as emerging challenges, such as terrorist threats, have further increased the demands for armed services. This practice remains strictly prohibited in law and is a major challenge for the authority.

There are also reports of corruption in the civilian firearms registry, where individuals who could not pass the legally required background check to obtain a firearm license or would find the process too lengthy, would simply buy a fake license.<sup>35</sup> In an attempt to have a better control over firearms and their use, the Ministry Interior and Coordination of National Government is undertaking a mandatory vetting process of all gun holders in Nairobi and other parts of the country. All civilian firearms holders are appearing in person before the Firearms Licensing Board for vetting: qualified license holders will then receive a new license smart card, which will be fitted with chips containing the personal details of holders.<sup>36</sup>

Sparked by the January 2019 attacks, the government has initiated a discussion with PSCs on gun ownership. The debate, about whether to allow PSCs to carry firearms, was initiated by the national security committee and stakeholders as a possible solution to ease the pressure on police. However, there are capacity and administrative challenges facing the process of allowing PSCs to carry weapons.

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<sup>35</sup> <https://www.kenyans.co.ke/news/cartel-kenyas-civilian-firearms-registry-makes-sh1-million-illegal-gun-licences-19108>

<sup>36</sup> <https://www.the-star.co.ke/news/2019-01-31-licensed-gun-holders-vetting-to-begin-monday-in-nairobi/>

**From the survey answers as well as the KII and FGD, the following points were mentioned as obstacles to permit PSCs to carry firearms:**

- Currently, most PSCs do not carry out proper vetting process nor sufficient background check of their employees to assess whether there are eligible to carry firearms;
- PSCs are not capable or willing to invest in appropriate training in the handling and management of firearms for their employees;
- A majority of PSCs would not be ready nor capable to adequately maintain, store and account for the firearms they would own;
- With poor working conditions and poor welfare of personnel, firearm would create an extra layer of stress on PSCs employees, with the risks leading to incidents, misuse and abuses;
- The PSRA, as mentioned before, is still a new entity settling down with limited resources to carry out its mandate. There is a risk that enabling PSCs to carry weapons would create new and additional challenges for the Authority in terms of compliance on regulations and monitoring system.

## 5. Private Security and Law Enforcement Agencies

In consideration of the new security challenges and needs identified earlier in this study, it is impossible for the police alone to ensure a peaceful, safe, and secure country. Maintaining law and order therefore requires collaborative efforts on different fronts. While the police-citizen ratio in Kenya is around one police officer for every 450 citizens, the number of private security guards is more than five times the number of police and the defense forces, combined.<sup>37</sup>

Kenya's security services have embraced a multi-agency approach to security, resulting in multi sectoral reforms in the government and partnerships with other stakeholders to enhance security and safety in the country. The enactment of the 2016 Act is part of this approach.<sup>38</sup>

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<sup>37</sup> <https://www.businessdailyafrica.com/analysis/Security-firms-police-should-work-together/539548-3965760-n8nx93z/index.html>

<sup>38</sup> Legislative Reforms also included, amongst other, the Access to Information Act, No. 31 of 2016 and the Bribery Act, No. 47 of 2016. <http://kenyahighcom.org.uk/government-statement-on-enhanced-security-situation-in-the-country/>

Partnerships between law enforcement and private security are not a new phenomenon and their collaboration is mentioned in article 45 of the 2016 Act. PSCs work very closely with police and other agencies in particular to document, deter and report crimes at the earliest opportunity. Cooperation of private security personnel with the police, in case of need or emergency, is mandatory.

But despite this long standing de facto cooperation, it was explained during the KIIs and FGDs that the relationship between private security providers and the police is characterised by a lack of a clear regulatory framework and the absence of a clear and consistent policy framework. The regulation providing 'for any matter relating to the cooperation, scope, mechanism and command in the case of cooperation with the private security service provider', as mentioned in article 45 of the 2016 Act have so far not been issued.

Some police officers for instance will cooperate with private security in the form of responding to incidents and alarms from the private security clients and also on offering security to cash on transit.

A more problematic form of cooperation appears to be the common practice of PSCs hiring police officers to support their operations. This happens usually for back-up service for sensitive assignments, such as for example cash in transit, and is another way for PSCs to obtain staff carrying firearms. Police officers hired by PSCs still act in their private mandate as police officers, keeping their uniform as well as their service weapons to carry-out the specific private security mandate. This creates obvious confusion of roles, in particular when use of force might be required. This practice is widely accepted, with some PSCs reporting to hire several hundreds of police officers every day and with very little regulation around it. It has also been reported as a very common opportunity for bribes and corruption, with money being often exchanged illegally.

**The main challenges regarding the relationship between PSC and the law enforcement agencies are:**

- Lack of adequate regulation of the relationship, in particular lack of definition of the use of force and of firearms by a police officer hired by a private actor;
- Lack of understanding and consideration between both actors;
- Lack of regulation of the relationship also led to potential corruption and bribes.

## 6. Training and capacity building

Training in the private security industry has been disorganised, leading to a general lack of professionalism and accountability in the sector. Despite the authority's function to define standards and to accredit institutions offering training,<sup>39</sup> no official training institution has been accredited and no standard training has been defined so far.

Most PSCs view training as a cost and not as an investment in their human resources, and PSCs rarely consider more than very basic training for their staff. This also has as a consequence that employment in the industry is often viewed as a last resort, when other opportunities have run out, or as a temporary solution awaiting a better opportunity. This has for consequence a very high turnover of staff, as well as a global lack of motivation from personnel to pursue training on their own.

Most of the companies interviewed indicated that they offer basic training to new recruits. Those basic training are usually delivered by the PSC itself, ranging from two weeks to one month. Such training usually includes basic security techniques, guarding, drilling, patrol, fire-fighting, handling of basic equipment, rapid response, surveillance and intelligence gathering. It was noted that the current training provided might be just sufficient for very basic assignments of private security, but that they would in no case be enough to enable PSC employees to face more complex tasks or to respond to emerging security challenges such as terrorism, tracking and cyber-crime. PSCs personnel, especially those from small firms, are often recruited on demand, for specific mandates where the recruits are only trained on drill, if at all. Additionally, these onsite training often lack material and equipment and provide a poor learning environment.

It was reported during the KII and the FGD that often, when a crime happens, PSC employees do not know how to handle the situation. Initiating a training (or additional training) once an employee has already started working is, in most cases, not an option as this would require them to reduce their working hours for the training, which most PSC employee cannot afford to do. Additionally, some PSCs complained about the poaching of experienced staff from counterparts: if a PSC put in the effort to appropriately train his employees, it would run a high risk of seeing its qualified staff being recruited by another company. There is a need for a unified and improved training across the industry, as well as for integrated opportunities for continuing education to enable PSC employees. Such unified training

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<sup>39</sup> Article 9(j) of the Act

requirement would account for better trained and more motivated personnel and contribute to globally raise the standards, the professionalism and the reputation of the industry.

Currently there is only one training institution, the Private Security Training Academy (PSTA),<sup>40</sup> owned by Senaca EA and located in Karen, Nairobi. The PSTA is not yet accredited by the authority, but it offers several trainings for PSCs employees, such as: basic training for private security officers, security supervision training, CCTV control room operations training, dogs and dog handlers training, mobile responses training, community policing training, as well as VIP protection and defensive driving training.

The PSRA has called for the creation of one harmonised training curriculum in the beginning of 2019. The development of this harmonised curriculum brings together the Nation Industrial Training Authority (NITA) and the Technical and Vocational Education Training Authority (TIVETA), with the aim of developing a single standard training curriculum for the private security industry. This curriculum is developed through a multistakeholder process, creating for its harmonious development working group composed of all relevant stakeholders: PSC actors, authority representatives and civil society representatives.

The PSTA is working very closely with NITA to review the curriculum and to ensure that the training matches international standards, such as the good practices proposed by the Montreux documents or the ICoC. As of March 2019, the process of curriculum development and stakeholder consultations had been taken over by the authority as stipulated in the 2016 Act.

**Main challenges linked to the training of PSC employees:**

- The size and geographical spread of the private security actors both in number of companies and number of personnel is huge, making it hard to reach everyone with the same training standards;
- The emergence of new security challenges and dynamics, in particular terrorist threats, create new needs, which the industry is not prepared for;
- There is a lack of unified training standards across the industry; current trainings are very uncoordinated and disjointed: often provided directly by the PSCs and in most cases inadequate and insufficient to address emerging challenges;

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<sup>40</sup> <https://pstaworld.com>

- The costs of training is prohibitive – both for PSC to train their employees and for employees to consider independent training. Training is still regarded as a cost rather than an investment;
- There is a common practice of poaching well trained employees, which further discourages PSCs to invest in training of their staff;
- Private security work is often considered as a last resort: often personnel lack motivation and are of low literacy levels. This reflects negatively on personnel's behavior, lowering the global professionalism and standards of the industry.

## 7. Respect for workers' rights

The majority of the staff, especially the frontline security guards (officers working as guards) are operating under difficult working conditions, with little support to facilitate their work. Most private security employees are paid very low wages, sometimes even falling below the minimum wage. In some cases, PSCs employees are paid according to the agreement with specific client, which pushes PSCs to reduce their employees' wages to offer competitive prices. This makes the guards vulnerable, to the extent of compromising security ideals for the sake of survival.

Employment in the sector rarely offers any help or advantages, such as for example transport to and from work station. Salaries might also be unequal amongst employees and often do not reflect adequately number of years of service, qualification or experiences. It was even reported that uniform costs were deducted monthly from salaries (up to Kshs. 400 per month), while uniforms often were old, and it was difficult to obtain new ones. One case was even reported where a security guard had to share his uniform with a newly recruited worker, since uniform allocation took too long.

During the KII, it was highlighted that a majority of the companies, especially the less established, small PSCs, do not issue contracts to their employees, accounting for an extremely insecure and unpredictable work environment. This situation has resulted into unfair and summary dismissal of staff without following due process.

Gaps were also reported in terms of social and health insurance provision: the National Hospital Insurance Firm (NHIF) and the national Social Security Fund (NSSF) are not provided to employees in some PSCs, even though it is a legal requirement for all employers.

According to KII results, few companies manage to obey and respect their obligations, a large majority still do not comply with legal requirements in term of worker's rights.

Gender and ethnic discrimination was also reported across the respondents during the study.

**The main challenges related to PSC workers' rights are:**

- Low wages and, in general, poor working conditions;
- Abuses, such as lack of contract, unfair dismissal, lack of compliance from employers with social and health insurance;
- Gender and ethnic discrimination.

## 8. Private security and the extractive industry

The extractive sector in Kenya is still quite a young industry in development, characterised by both large-scale mining operations, as well as small-scale and artisanal mining. The emerging extractive industry in Kenya is attracting very keen interest at the local and international level. Even if the extractive sector offers great potential for the development of the country, it also has the potential to exacerbate existing conflicts or spark new problematics, especially as a large part of the extractives sector activities are developed in remote areas that are politically, economically and geographically marginalised.<sup>41</sup>

With high levels of proliferation of small arms and light weapons across northern Kenya, as well as the rise in terrorist activities potentially targeting extractive companies as high-value targets, the extractive industry require specific security services to protect their assets, infrastructures and personnel. The oil, coal, salt mines and titanium companies are prominently engaging services of private security providers. Nevertheless, as PSC employees are not allowed to carry weapons, extractive often use police officers to complement PSCs services – although the cooperation amongst both sectors remain unclear. As seen earlier, these unclear modes of cooperation leave space for corruption and bribes. Additionally, police officers hired for a private mandate has a very high risk of being confused about their role, in particular when it comes to the use of force: this requires an

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<sup>41</sup> Going for gold, Risks and opportunities in Kenya's extractives sector, Background paper: December 2017, International alert.

appropriate legal framework regulating these sorts of arrangement, as well as relevant trainings, for both the police officer and the private security personnel.

Working conditions of private security personnel have also been reported as being quite rough: on top of the generally poor working condition in the industry, private security personnel working for the extractive industry are often based in remote areas with complex security contexts and high risks associated to their job. It was also reported that the illegal use of firearm by PSCs is more likely to happen in this context, and it is often a requirement from the extractive companies themselves.

The relationship of extractive industry with the local communities can also be quite tense, since communities feel that their resources are being exploited without them benefiting. Private security officers are often on the front line to deal with community's discontentment. This is a delicate task that would require appropriate training.

**The major challenges related to the operation of PSC in the extractive industry in Kenya are as follows:**

- Private security mandates for extractive industries, mostly when facing discontent communities, can be particularly sensitive and PSC personnel do not have adequate training to deal with these situations and prevent harm both to the communities and to themselves;
- Poor working conditions (see challenge 7 above), and particularly hazardous working environment;
- Insufficient regulation to adequately define processes and rules where police forces are hired by private actors (either a PSC or directly the extractive company) to ensure their security.

## Chapter 4: Findings and Recommendations

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The analysis of the national context and key characteristics of the private security sector in Kenya shows that there is goodwill from the government and the industry itself to improve the regulation of the sector. There has been recognition of the growth and increasing importance of the industry as a significant player in Kenya's security sector, translated into a new regulation (the 2016 Act) as well as a multi-agency approach to security, inclusive of the private security sector.

The survey responses as well as the KII and FGD indicated that the private security sector in Kenya would have a positive influence on safety and security at the national level, in particular in relation with the following:

- Loss prevention functions
- Special events security
- Private investigation
- Co-ordination of activity
- In-house security functions

The analysis of the challenges, nevertheless, reveal that despite those steps forward, there are several gaps both in the regulation of private security and in their operations.

The legislation presents two types of challenges: On the one side, some gaps and unclear language are identified in the existing regulation. It seemed, for example, that some definitions lacked clarity and enabled different interpretations, such as around the notion of a 'private security provider'. Also, some recent developments, such as the use of new technologies, are not considered by the law. On the other side, there seem to be some deficiencies when it comes to the implementation of the law. The authority, being still quite a young institution, appears not to have sufficient resources to adequately and effectively comply with its mandate. Many of the side regulations that are mentioned in the law,

such as the adoption of a training curriculum, or of guidelines for cooperation with the public, have not been addressed. Registration of PSCs remains weak – let alone the monitoring of their operations.

In addition to the regulation gaps, it was identified that many challenges exist in the operations of private security companies in relation to: emerging security challenges, firearms, relations with public security forces, in the field of training and capacity building, related to workers' rights and to the extractive industry.

Given the role that the private security sector is playing and can play in improving the overall security landscape in Kenya, it is essential to take the appropriate steps to ensure that the activities of PSCs conform to the national regulatory framework as well as internationally recognised standards and best practices.

**To this end, the following recommendations are made:**

## To the regulatory authority

- 1.** As the data obtained from the primary analysis indicate, private security is a growing and rapidly changing industry. Therefore, while a single study examining a point in time is useful, a process of periodic review, looking at the industry in a consistent manner over time should be put in place to provide accurate and updated information into the industry and how it is evolving.
- 2.** At this stage, two years after the ratification of the Private Security Regulation Act of 2016, an in-depth analysis of its implementation status should be undertaken, to define the specific gaps and challenges both in the text of the 2016 Act and in its implementation.
- 3.** PSRA should put in place an effective communication strategy to enhance the relationship and to promote an improved communication between private security and public forces.
- 4.** PRSA should issue specific regulations to provide for any matter relating to the cooperation, scope, mechanism and command in the case of cooperation between private security providers and public forces; regulation should address the duty of private security providers to cooperate with the public security forces and regulate the hiring of public forces officers by private actors.
- 5.** At the local level, PSCs and the public forces commanders should establish strong partnerships. This could be achieved through partnership between the local police offices and the local security committee.
- 6.** There is an urgent need to bring together the private and public security sectors to define what are the individual and the common challenges and training needs of both sectors, and integrate this into standard training curriculum.
- 7.** There is an urgent need to develop a mandatory unified training curriculum for private security providers. The curriculum should provide for definite training duration (at least two months) upon which certification should be provided by a recognised training institution.
- 8.** Mandatory additional training should also be imposed for specific activities carried out by PMSCs, in particular those taking place in complex environments, those bringing actors of different cultural backgrounds together, and the use of specific equipment.
- 9.** Complaints against private security providers should be closely monitored by PSRA, so as to enhance accountability in the industry. This will enhance issues of compliance with required regulations.

10. The PSRA should develop cooperation arrangements with CSOs to formalise its role in terms of monitoring.
11. Kenya should take into consideration joining the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict,<sup>42</sup> as well membership to the International Code of Conduct for Private Security Service Providers' Association (ICoCA).<sup>43</sup>

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<sup>42</sup> <https://www.mdforum.ch/en>

<sup>43</sup> <https://www.icoca.ch/en/>

## To private security industry stakeholders (Union, PSCs, Clients, Employees)

- 1.** Private security sector stakeholders, in particular the Unions, should engage in sensitisation campaigns on basic human rights principles to ensure:
- 2.** Human rights compliance of PSC employees as contained in the law;
- 3.** Protection of human rights of employees themselves, particularly the frontline security guards.
- 4.** The Union should be strengthened, and empowered to create better working conditions for PSCs employees. Better working conditions would also raise the global profile of the sector, improving its internal and public perception.
- 5.** PSCs should develop and implement internal company policies that specifically reflect their commitment to respecting national laws and standards, labour policies, as well as IHL and human rights.
- 6.** Big PSC clients, and in particular government agencies, including parastatals, should lead by example by having public procurement policies reflecting high standards for the hiring of PSC services. Minimal requirements should at least include compliance with legal requirements, in particular in terms of registration and licensing, as well as records of past conduct—for the company, its management and its personnel. Contracts should entail a clause imposing compliance with IHL and human rights law, as well as appropriate sanction in case of non-compliance.
- 7.** A model contract could be proposed by key stakeholders reflecting minimal procurement good practices.
- 8.** Strengthen the capacity of unions to enhance accountability in the industry.
- 9.** Private security companies should take into consideration membership to the International Code of Conduct for Private Security Service Providers' Association (ICoCA).<sup>44</sup>

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<sup>44</sup> <https://www.icoca.ch/en/>

## To civil society

- 1.** CSOs working in the security field, such as Usalama Reforms Forum, should lead efforts towards the development of a sensitisation campaigns on basic human rights principles within the private security sector.
- 2.** CSOs working in the area of security, such as Usalama Reforms Forum, should lead efforts to raise public awareness on issues related to good governance of private security; they can promote the implementation the laws, regulations and standards and they can contribute to national policies.
- 3.** CSOs should actively participate, through multistakeholder consultation processes, in the development of a standard training curriculum for private security personnel. CSOs should help to ensure that their recommendations are included and in particular those of communities and individual affected by PSCs operations.
- 4.** CSOs, as a neutral actor on the ground, should be actively involved in the monitoring of PSC. Wherever possible, CSO should enable good communication and dialogue between the different stakeholders.
- 5.** CSOs should be empowered to manage complaints and support victims in case of violation by a PSC or its employees.
- 6.** CSOs should share good practices and lessons learnt, and consider membership to the African Private Security Governance Observatory,<sup>45</sup> as well as membership to the International Code of Conduct for Private Security Service Providers' Association (ICoCA).<sup>46</sup>

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<sup>45</sup> <http://www.observatoire-securite-privee.org/en>

<sup>46</sup> <https://www.icoca.ch/en/>





## Annex 1: Scope and Methodology

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The study used both secondary and primary sources in carrying out the survey and was conducted in Mombasa, Nairobi and Kisumu. The Researcher conducted an evidence-based, participatory, rights- and value-based technical approach to deliver on the Terms of Reference. Value-based approach meant the data collection and reporting process respected the tenets of transparency, equity and equality. The Researcher ensured the private security providers and workers; rank and file, members of the public and CSOs working in the field were interviewed.

Participatory approach meant that the survey employed a mixed-methods approach designed to collect data to inform each of the survey questions. To support the data collection, the researchers used their networks in the private security industry and implementing partners' experience in the assessment.

### **Desk Study:**

The researcher reviewed a wide range of official government documents, research papers and commission reports as well as other literature materials relating to private security industry in Kenya and elsewhere. Official government documents included the Private Security Regulation Act (No. 13 of 2016), Justice, Law and Order Sector (GJLOS) and the Report of the National Task Force on Police Reforms.

### **Primary Data Collection**

#### 9. Survey

Quantitative data was collected using Questionnaire-based survey through face-to-face interview with workers of private security industry and members of the public in Kisumu (20%), Nairobi (60%) and Mombasa (20%). Usalama Reforms Forum developed a 27 question survey which was distributed to 340 workers of private security industry and members of the public. Probability sampling was used to collect data. This allowed taking a representative sample that could be extrapolated to the entire population. This increases the confidence level in the generalisation about subgroups or specific region.

To prevent duplication in answers, workers of private security industry and members of the public who participated in the Key Informant Interviews and Focused Group Discussions that were also undertaken by Usalama Reforms Forum did not receive the survey questionnaire.

10. Key Informant Interviews (KIIs):

Around 25 key informant interviews were conducted with individuals using a snowballing sampling technique that involved individuals working in/with private security industry such as Usalama Reforms Forum, Kenya Human Rights Commission, Independent Policing Oversight Authority, International Centre for Transitional Justice, Private Security Regulation Authority, Kenya National Private Security Workers Union (KNPSWU), Kenya Security Industry Association (KSIA) and the Protective Services Industry Association (PSIA) to purposively-select key individuals with knowledge on the issues for the survey.

11. Focus Group Discussions (FGDs):

The researcher conducted a total of 10 FGDs in Kisumu (20%), Nairobi (60%) and Mombasa (20%) with workers of private security industry and members of the public. Non-probability sampling was used to identify key informants and Focused Group Discussions (FGD) participants. Each FGD consisted of an average of 10 respondents. A discussion guide was used to conduct the discussions.

## Observation

This corollary method was undertaken through researcher's observation of the respondents' reaction during FGDs and KIIs to unravel the unspoken words and feelings.

a) Triangulation

The researcher then conducted a statistical analysis using all the information gathered with the aim of modeling and assessing the entry points for civil society advocacy and monitoring to contribute to accountability mechanisms at national, regional and international levels.

b) Data Analysis

Qualitative data was subjected to content analysis to establish major and common themes and issues emerging. Some of the major categories that emerged included markets and services performed by private security companies, responses to emerging security challenges, profile and geographical

distribution of private security providers, Public perception of private security in Kenya, Private Security Providers Capacity Issues, Private Security, criminality and organised crime in the country and registered security service providers and the informal security structures among others.

Completed surveys were coded and entered into a computerised data base. Data were checked for accuracy using a 10% random sample and by reviewing intra-item relationships using the entire database. Quantitative data analyses included frequency and cross tabulations summaries using the standard SPSS Version 20 for Windows package. All written comments were separately analysed for content and theme. The survey questionnaire is provided in Appendix. Quantitative data will primarily be analysed using the Statistical Package for Social Sciences (SPSS) program to give a range of outputs including frequencies, percentages as well as cross-tabulations for all indicators in the survey questionnaire.

Once the frequencies, percentages and cross tabulations had been developed from the quantitative data as well as major categories and themes established from the qualitative data, the organised data was then subjected to descriptive and interpretive analysis. Descriptive analysis sought to identify the current status. For example, what is the national context of Private Security Industry in Kenya? Is there a legal and Regulatory Framework for private security industry? What are the gaps and challenges in the implementation of the Regulatory Framework? What are some of the challenges facing private security providers operating in extractive industry in Kenya? How has this impacted on the industry? What is the level of awareness of human rights in the private security industry?

Interpretive analysis sought to derive meaning and establish patterns from the phenomena identified in the descriptive analysis.



## Annex 2: Household Study on the Private Security Industry in Kenya

Household Survey on the Private Security Industry in Kenya : Challenges and implementation of Legal and Regulatory Framework			
<b>Introduction</b>			
<p>Good morning/afternoon/evening. My name is _____. I am a researcher with Usalama Reforms Forum. We are conducting a survey focusing on the impact of Private Security Players in the provision of security in Kenya. The baseline Survey is being conducted in three cities of Nairobi, Mombasa and Kisumu in Kenya. I would like to interview you on issues of Private security industry in Kenya and existing challenges in this sector as an important member of your community. The information you provide will be used to strengthen security initiatives in your community and provide information on the progress made in the implementation of Security Sector Reforms.</p> <p>The survey will take approximately <b>1hour</b>. Please answer as accurately as possible, and if you don't understand a question kindly let me know. The information you provide is <b>Strictly Confidential</b> and will only be used for the purposes of this survey.</p>			
<b>PART 1: DEMOGRAPHICS AND HOUSEHOLD INFORMATION OF RESPONDENTS</b>			
	Question	Code	Skip Pattern
1.	Name of City	Nairobi.....1 Mombasa.....2 Kisumu.....3	
2.	Name of Area/ City	(Open ended)	
<b>Household Data</b>			
1.	Respondent is head of the household	1. Yes 2. No	
2.	What is your age?	1.18-25 years old 2.26-35 years old 3.36-45 years old 4.46 years and above	
3.	What is your sex/gender?	1.Female 2.Male	
4.	What is your Marital Status	1.Single 2.Married	

		3.Divorced/Separated 4.Widow/Widower 5.Other (Specify)	
5.	What is your highest level of education?	1.No formal education 2.Primary 3.Secondary 4.College /University/ Post Graduate	
6.	What is your <b>Main</b> source of livelihood?	1.Formal employment 2.Informal employment	
<b>Part 2: National Context of Private Security Industry In Kenya</b>			
7.	How often do you interact with the private security providers in this area?	1. Very Regularly 2. Regularly 3. Rarely 4. Never 5. Don't know	
8.	In your view, what is the public perception of private security in Kenya in terms of;	i. Trust ii. Competence iii. Efficiency iv. Corruption	
9.	In your understanding, how are private security providers in Kenyan coping with the emerging security situation? <i>Probe for</i>	i. Emerging terrorism threats ii. General Crime iii. Emerging conflicts iv. Political dynamics	
10.	Who are the main clients of private security providers/companies and what type of services do they provide	Clients	Type of Services
11.	In your opinion, what is the level of demand for private security services in Kenya?	1. High 2. Average 3. Low 4. Don't know	
12.	Does the existing capacity of the private security providers/companies meet these requirements in terms of the following;	i. Deployment (numbers) ii. Equipment (vehicles, motorcycles) iii. Training and customer care iv. Resources v. Others i.e.(Intelligence gathering, tracking	Describe using; 1. Adequate 2. Inadequate

		services)		
13.	In your view, to what extent has the private security sector in Kenya assisted in combating:	(i) Criminality (ii) Organized crime		
14.	In your view, do registered security service providers engage with the informal security structures? <i>Probe for</i>	(i) Vigilante groups (ii) Neighborhood groups (iii) Youth groups (iv) Any other group		
15a.	Is there any relationship between private security service providers and politicians/decision-makers?	1.Yes 2.No 3. Don't know		
15b.	If yes, how has this impacted on operations of private security providers? <i>Elaborate</i>			
16.	In your opinion, does the civil society have any role in promoting good governance in the private security sector? <i>Elaborate your answer</i>	1.Yes 2.No		
17a.	What are some of the common challenges experienced by private security service providers? <i>Name three</i>	1. 2. 3.		
17b.	How have they addressed such challenges? <i>Explain</i>			
<b>Part 3: Legal and Regulatory Framework</b>				
18a.	Are you aware of the Private Security Regulatory Authority (PSRA)?	1. Yes 2. No 3. Don't know		
18b.	If yes, what is their mandate and do you think they have sufficient capacity to effectively handle their mandate			
19.	Do you think the PSRA enjoy independence in terms of operations in the following areas?	1. Functions 2. Staffing 3. Political Independence	1. Yes 2. No 3. Don't now	

20a.	How is Firearms held by private security;	<ul style="list-style-type: none"> <li>i. Acquired</li> <li>ii. Licensed</li> <li>iii. Used</li> <li>iv. Don't know</li> </ul>		
20b.	What is the level of compliance required of the private security providers in handling Firearms? Explain			
21.	Do employers respect employees' obligations relating to staff welfare, wages and pensions among others?	<ul style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ul>		
22a.	What are some of the common labour related disputes in the sector you are aware of?			
22b.	What has been the sectors' response to the above situation? <i>Probe further</i>			
23.	In your view, how private security providers handle the following issues adequately in their companies?	<ul style="list-style-type: none"> <li>i. Training of staff</li> <li>ii. Human rights compliance</li> <li>iii. Use of firearms</li> <li>iv. Safety and working conditions</li> <li>v. Compliance to employment and labour laws</li> </ul>	<ul style="list-style-type: none"> <li>1. Very Satisfactory</li> <li>2. Satisfactory</li> <li>3. Average</li> <li>4. Poor</li> <li>5. Very Poor</li> </ul>	
<b>Part 4. Challenges related to the Implementation of the Regulatory Framework</b>				
24.	In your opinion, what are some of the challenges facing private security providers in Kenya in terms of the following?	<ul style="list-style-type: none"> <li>i. Operational environment</li> <li>ii. Governance</li> <li>iii. Registration</li> <li>iv. Licensing</li> <li>v. Capacity i.e. (use of force, use of Firearms and staff training)</li> </ul>	<i>Provide at least one response</i>	
25.	In your opinion, what is the level of awareness of human rights in the private security industry in Kenya?	<ul style="list-style-type: none"> <li>i. Very High</li> <li>ii. High</li> <li>iii. Average</li> <li>iv. Low</li> <li>v. Very Low</li> </ul>		
26.	What are some of the human rights issues affecting operations of private security providers you are aware of? <i>Mention at least three</i>			
27.	In your view, how do you rate the	<ul style="list-style-type: none"> <li>i. Accountability</li> </ul>	<ul style="list-style-type: none"> <li>1. Very</li> </ul>	

	following issues within the private security industry in Kenya?	ii. Compliance iii. Respect for Human rights	Satisfactory 2. Satisfactory 3. Average 4. Poor 5. Very Poor	
28a.	In your view, is there collaboration between the private security providers and; <i>Please elaborate your answer</i>	(i) The regulatory authority (ii) Civil Society Organizations (iii) Security agencies?	1. Yes 2. No 3. Don't know <i>Please elaborate</i>	
28b.	Are there challenges and benefits of such collaboration? <i>Kindly elaborate</i>			
	<b>Recommendations</b>			
29.	As a private security stakeholder, give some of the recommendations you consider useful in improving the operational environment of the sector?			
30.	In your view, what are other key areas of the industry you would recommend the baseline survey to focus on in order to strengthen collaboration(s) growth and sustainability of this sector?			
	<b>Thank you for your time</b>			



# Annex 3: FGDs Tool for the Baseline Study on Private Security Industry in Kenya

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## FGDs Tool for the Baseline Survey on Private Security Industry in Kenya: Challenges in the Implementation of the new Regulatory Framework

### Part 1: National Context of Private Security Industry in Kenya

- 1.** In your understanding, how are private security providers in Kenyan coping with the emerging security situation? Probe for terrorism threats, general crime, emerging conflicts and political dynamics
- 2.** What is the profile and geographical distribution of private security providers in Kenya? (Probe for number of registered companies/firms, number of staff, level of operation i.e. local, regional or international)
- 3.** In your view, who are the main clients of private security providers/companies and what type of services do they provide?
- 4.** In your opinion, what is the level of demand for private security services in Kenya? Does the existing capacity of the private security companies (providers) meet these requirements in terms of the following; (i) Deployment (numbers) (ii) Equipment (vehicles, motorcycles) (iii) Training and customer care (iv) Resources
- 5.** In your view, what is the public perception of private security in Kenya in terms of; (i)Trust levels (ii) Competence (iii) Efficiency (iv) Corruption
- 6.** In your view, to what extent has the private security sector in Kenya assisted in combating (i) criminality and (ii) organized crime in the country. Elaborate

7. In your view, do registered security service providers engage with the informal security structures? Probe for vigilante groups, neighborhood groups or youth groups
8. What are some of the common challenges experienced by private security service providers? How have they addressed such challenges?

## Part 2: Legal and Regulatory Framework

9. Do you know about the Private Security Regulatory Authority (PSRA)? What is their mandate and do you think they have sufficient capacity to effectively deliver?
10. Are there operational requirements demanded from private security providers by the regulatory authority in terms of the following;
  - a. Training standards
  - b. Human rights compliance
  - c. Use of force
  - d. Use of firearms and other weapons
  - e. Safety and healthy working conditions
  - f. Compliance to employment and labour laws
11. What do you know about Firearms Act or any other law regulating acquisition, licensing and use of Firearms held by Private Security Service Providers?
12. Do employers respect employees' obligations relating to staff welfare, wages and pensions among others? Elaborate
13. What are some of the common labor related disputes in this sector? What has been the sectors' response to the above situation? Probe

## Part 3: Gaps and challenges in the implementation of the Regulatory Framework

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14. In your view, what are some of the challenges facing private security providers in Kenya in terms of the following; Operational environment, Governance, Registration, Licensing and capacity enhancement
15. In your opinion, what is the level of awareness of human rights in the private security industry? Explain any human rights issue(s) you are aware in this sector.
16. In your view, is there collaboration between the private security providers and (i) the regulatory authority (ii) Civil Society Organizations and (iii) Security agencies? Any challenges? Kindly elaborate
17. Have you heard of the International Code of Conduct for Private Security Industry (ICOCA Standards) in Kenya? Probe
18. What are some of the challenges facing private security providers operating in extractive industry in Kenya? How has this impacted on the industry?

#### **Part 4: Recommendations**

19. As a stakeholder, what are some of the recommendations you consider useful in improving the operational environment of the private security sector in Kenya?
20. What are other key areas of the industry you would recommend the baseline survey to focus on in order to strengthen collaboration(s) growth and sustainability of this sector?



# Annex 4: KII Tool for the Baseline Study on Private Security Industry in Kenya

## KII Tool for the Baseline Survey on Private Security Industry in Kenya: Challenges in the Implementation of the new Regulatory Framework

### Part 1: National Context of Private Security Industry in Kenya

1. In your understanding, how are private security providers in Kenyan coping with the emerging security situation? *Probe for terrorism threats, general crime, emerging conflicts and political dynamics*

2. What is the profile and geographical distribution of private security providers in Kenya? (Probe for number of registered companies/firms, number of staff, level of operation i.e. local, regional or international)

3. Who are the main clients of private security providers/companies and what type of services do they provide?

	Clients	Type of services provided
i.		
ii.		

iii.		
iv.		

- 4.** In your opinion, what is the level of demand for private security services in Kenya? Does the existing capacity of the private security providers (companies) meet these possible requirements in terms of the following;

	Capacity requirements (s)	Description (use normative values e.g. adequate, inadequate, etc)
i	Deployment (numbers)	
ii	Equipment (vehicles, motorcycles, drones etc)	
iii	Training (customer care, physical security, etc)	
iv	Resources (funds, etc)	
v	Others e.g. basic intelligence gathering, tracking services)	

- 5.** In your view, what is the public perception of private security in Kenya in terms of;

		Description (use normative values e.g. adequate, inadequate, etc)
i	Trust (levels)	
ii	Competence	

iii	Efficiency	
iv	Corruption	

- 6.** In your view, to what extent has the private security sector in Kenya assisted in combating (i) criminality and (ii) organized crime in the country. *Elaborate*

- 7.** In your view, is there any relationship between private security service providers and politicians/decision-makers? Has this impacted on operations of private security providers? *Elaborate*

- 8.** In your view, do registered security service providers engage with the informal security structures? *Probe for vigilante groups, neighborhood groups or youth groups*

- 9.** In your opinion, does the civil society have any role in promoting good governance in the private security sector? *Elaborate your answer*

- 10.** What are some of the common challenges experienced by private security service providers? How have they addressed such challenges?

## Part 2: Legal and Regulatory Framework

**11.** Who is responsible for the regulation, oversight and monitoring of private security sector in Kenya?

**12.** Are you aware of the Private Security Regulatory Authority (PSRA)? In your view, what is their mandate and do you think they have sufficient capacity to effectively handle their mandate?

**13.** Do you think the PSRA enjoy independence in terms of operations? *Probe for functions, staffing and political independence*

**14.** Is there a validity period on a license issued and does the law provide for renewal, suspension or cancellation? Under what circumstances does this occur? *Elaborate.*

**15.** Are there other operational requirements demanded from private security providers by the regulatory authority in terms of the following;

- a. Training standards
- b. Human rights compliance
- c. Use of force
- d. Use of firearms and other weapons
- e. Safety and healthy working conditions
- f. Compliance to employment and labour laws

**16.** How does the Firearms Act or any other law regulate (if at all) acquisition, licensing and use of Firearms held by Private Security Service Providers? What is the level of compliance required?

*Probe*

**17.** Are there specific provisions on awarding private security contracts by the state or other government agencies? *Probe for criteria, procedure and disclosure of such contracts*

**18.** Is there a specific provision in law regarding possession, storage and movement of firearms and other weapons by private security providers?

**19.** Do employers respect employees' obligations relating to staff welfare, wages and pensions among others? *Elaborate*

**20.** What are some of the common labor related disputes in the sector? What has been the sectors' response to the above situation? *Probe further.*

### Part 3: Gaps and challenges in the implementation of the Regulatory Framework

**21.** As a key stakeholder, what are some of the challenges facing private security providers in Kenya in terms of the following;

- a. Operational environment
- b. Governance
- c. Registration
- d. Licensing
- e. Capacity enhancement (use of force, use of Firearms and training opportunities)

**22.** In your opinion, what is the level of awareness of human rights in the private security industry? Kindly explain any human rights issue(s) you are aware of relating to this sector.

**23.** In your understanding, how would you assess the level of training and experience of private guards in Kenya? *Elaborate.*

**24.** In your view, is there collaboration between the private security providers and (i) the regulatory authority (ii) Civil Society Organizations and (iii) Security agencies? Are there challenges and benefits of such collaboration? *Kindly elaborate.*

**25.** In your opinion, what is the role of private security providers in the extractive industry in Kenya? What level of involvement (if any) exists?

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**26.** What are some of the challenges facing private security providers and military companies operating in extractive industry in Kenya? How has this impacted on the industry?

**27.** Have you heard of the International Code of Conduct for Private Security Industry (ICOCA Standards) in Kenya? *Probe.*

**28.** How often do you interact with the Private Security Regulatory Authority and other actors, if at all? Explain how useful the interactions are.

**Part 4: Recommendations**

**29.** As a private security provider, give some of the recommendations you consider useful in improving the operational environment of the sector?

**30.** In your view, what are other key areas of the industry you would recommend the baseline survey to focus on in order to strengthen collaboration(s), growth and sustainability?





The **Ushalama**  
Reforms Forum



# **Baseline Study on the Private Security Industry in Kenya**

## **CHALLENGES AND IMPLEMENTATION OF THE NEW REGULATORY FRAMEWORK**

This Study provides an in-depth analysis of the private security industry in Kenya and an improved understanding of its challenges. In particular, it identifies the gaps and challenges to the implementation of the regulatory framework and analyse wider existing challenges and opportunities in the Kenyan private security industry.

It identifies opportunities for all relevant stakeholders to work together to develop an improved oversight and accountability of the sector, and offers recommendations towards better governance and regulation of the private security industry.

Private Security  
Governance  
**Observatory**

